

REPUBLIC OF KENYA



THE NATIONAL ASSEMBLY



TWELFTH PARLIAMENT
SECOND SESSION

THE DEPARTMENTAL COMMITTEE ON HEALTH
REPORT ON THE HEALTH LAWS (AMENDMENT) BILL, (NATIONAL ASSEMBLY BILL
NO. 18 OF 2018)

DIRECTORATE OF COMMITTEE SERVICES
THE NATIONAL ASSEMBLY
PARLIAMENT BUILDINGS
NAIROBI

AUGUST 2018

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CHAIRMAN'S FOREWORD

The Health Laws (Amendment) Bill No. 14 of 2018 was read a First Time on 26th April, 2018. Pursuant to the provisions of Standing Order 127(1) the Bill was committed to the Departmental Committee on Health for consideration. Due to the bulk of sections being amended in 13 Acts of Parliament, the Hon. Speaker extended the period in which the Committee would table its report, to 7th August, 2018.

The Bill proposes to amend various sections of the following thirteen Acts of Parliament;

- i. The Radiation Protection Act (Cap. 243)
- ii. The Pharmacy and Poisons Act (Cap. 244)
- iii. The Medical Practitioners and Dentists Act (Cap. 253)
- iv. The Food, Drugs and Chemical Substances Act (Cap. 254)
- v. The Nurses Act (Cap. 257)
- vi. The Kenya Medical Training College Act (Cap. 261)
- vii. The Narcotic Drugs and Psychotropic Substances (Control) Act (No. 4 of 1994)
- viii. The Nutritionists and Dieticians Act (No. 18 of 2007)
- ix. The Kenya Medical Supplies Authority Act (No. 20 of 2013)
- x. The Counsellors and Psychologists Act (No. 14 of 2014)
- xi. Physiotherapists Act (No. 20 of 2014)
- xii. The Health Records and Information Managers Act (No. 15 of 2016)
- xiii. Clinical Officers (Training, Registration and Licensing) Act (No. 20 of 2017)

However, the Ministry of Health during its submissions requested the Committee to withdraw entire amendments in the following three Acts, because a comprehensive review was being done amidst further consultations;

- i. The Radiation Protection Act (Cap. 243)
- ii. The Food, Drugs and Chemical Substances Act (Cap. 254)
- iii. The Narcotic Drugs and Psychotropic Substances (Control) Act (No. 4 of 1994)

Further, the Ministry withdrew proposed amendments to Section 35 under The Pharmacy and Poisons Act (Cap. 244) awaiting further consultations, including their newly proposed Section 25A in the same Act.

The Committee sincerely thanks the Offices of the Speaker and the Clerk of the National Assembly for the immense and timely technical and logistical support accorded to it in

the execution of its mandate. I also thank all the Members of the Committee and the secretariat for their commitment and hard work which enabled us to complete the tasks related to the scrutiny of the proposed amendments and compilation of this report.

The Committee is also grateful to stakeholders who made submissions in relation to the Consideration of the Bill.

On behalf of the Departmental Committee on Health and pursuant to provisions of Standing Order 127 (4), it is my pleasant privilege and honor to present the Report of the Committee on its consideration of the Health Laws (Amendments) Bill No. 18 of 2018.

SIGNED

HON. SABINA CHEGE, MP
(CHAIRPERSON)

DATE.....

ADOPTION OF REPORT OF THE COMMITTEE ON HEALTH ON THE HEALTH LAWS
(AMENDMENT) BILL NO. 14 OF 2018

We, the Honourable Members of the Departmental Committee on Health, do hereby affix our signatures to this report on the Health Laws (Amendment) Bill No. 14 of 2018, to affirm our approval and confirm its accuracy, validity and authenticity;

1. Hon. Sabina Chege, MP
2. Hon. Swarup Ranjan Mishra, MP
3. Hon. (Dr.) Eseli Simiyu, MP
4. Hon. (Dr.) James Nyikal, MP
5. Hon. Alfred Agoi Masadia, MP
6. Hon. (Dr.) James Kipkosgei Murgor, MP
7. Hon. Muriuki Njagagua, MP
8. Hon. (Dr.) Mohamed Dahir Duale, MP
9. Hon. Stephen Mule, MP.....
10. Hon. Chris Karan, MP
11. Hon. Esther M. Passaris, MP
12. Hon. Gladwell Jesire Cheruiyot
13. Hon. Kipsengeret Koros, MP

14. Hon. Martin Peters Owino, MP

15. Hon. Mercy Wanjiku Gakuya, MP

16. Hon. Prof. Mohamud Sheikh Mohamed, MP

17. Hon. Patrick Munene Ntwiga, MP

18. Hon. Tongoyo Gabriel Koshal, MP

19. Hon. Zachary Kwenya Thuku, MP

COMMITTEE MANDATE

Mr. Speaker Sir,

The Departmental Committee on Health is established pursuant to the provisions of Standing Order No. 216(5) 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 is to;

- 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; and*
- g) *Make reports and recommendations to the House as often as possible, including recommendation of proposed legislation.*

The Departmental Committee is mandated to cover the functions of the Ministry of Health alongside its Semi-autonomous Government Agencies.

Committee Membership

The Committee comprises the following Honourable Members;

1. Hon. Sabina Chege, MP – **Chairperson**

2. Hon. Swarup Ranjan Mishra, MP – **Vice Chairperson**
3. Hon. (Dr.) Eseli Simiyu, MP
4. Hon. (Dr.) James Nyikal, MP
5. Hon. Alfred Agoi Masadia, MP
6. Hon. (Dr.) James Kipkosgei Murgor, MP
7. Hon. Muriuki Njagagua, MP
8. Hon. (Dr.) Mohamed Dahir Duale, MP
9. Hon. Stephen Mule, MP
10. Hon. Chris Karan, MP
11. Hon. Esther M. Passaris, MP
12. Hon. Gladwell Jesire Cheruiyot
13. Hon. Kipsengeret Koros, MP
14. Hon. Martin Peters Owino, MP
15. Hon. Mercy Wanjiku Gakuya, MP
16. Hon. Prof. Mohamud Sheikh Mohamed, MP
17. Hon. Patrick Munene Ntwiga, MP
18. Hon. Tongoyo Gabriel Koshal, MP
19. Hon. Zachary Kwenya Thuku, MP

The Committee is supported by the following members of the Secretariat;

- | | | |
|--------------------------------|---|----------------------------|
| 1. Mr. Victor Weke | - | Clerk Assistant I |
| 2. Mr. Muyodi Meldaki Emmanuel | - | Clerk Assistant III |
| 3. Mr. Ahmed Hassan Odhwa | - | Principal Research Officer |
| 4. Ms. Christine Odhiambo | - | Legal Counsel II |
| 5. Mr. Eric Kanyi | - | Fiscal Analyst |
| 6. Ms. Winnie Kiziah | - | Media Officer |
| 7. Ms. Catherine Wangui | - | Serjaent-at-Arms |

EXECUTIVE SUMMARY

Mr. Speaker Sir,

This report details the Consideration of The Health Laws (Amendment) Bill No. 14 of 2018. The Bill was read a First Time on 26th April, 2018. Pursuant to the provisions of Standing Order 127(1) the Bill was committed to the Departmental Committee on Health for consideration. Due to the bulk of sections being amended in 13 Acts of Parliament, the Hon. Speaker extended the period in which the Committee would table its report, to 7th August, 2018.

The Committee considered the amendment proposals in the Bill beginning with a brief of the import of the proposed amendments by the Committee's legal counsel.

In considering the bill, the National Assembly called for submission of memoranda from the public in the major dailies on 10th May, 2018, and subsequently received written submissions from several interested members of the public. In appreciation of provisions of the Constitution and the Standing Orders, and the great public interest in the amendments, the Committee invited the Ministry, its agencies and key stakeholders to two full-day sessions for them to canvass their views. The Committee then retreated for a full week to write its report.

The Committee's decisions on the amendments were based on Constitutional requirements and views from the relevant stakeholders and other members of the public.

The Ministry withdrew amendments to three Acts, The Radiation Protection Act (Cap. 243), The Food, Drugs and Chemical Substances Act (Cap. 254) and The Narcotic Drugs and Psychotropic Substances (Control) Act (No. 4 of 1994), and certain sections of the Pharmacy and Poisons Act. As much as the Committee assents to these withdrawals, it observes that it was curious that part of the Ministry's reasons for the withdrawals was that the proposed amendments did not entirely originate from them. The Committee reiterates the observation it made in its Statute Law Miscellaneous Amendments No. 2 of

2018 that Bills sponsored by the Government should have concurrence with the parent Ministry, with the Office of the Attorney General carrying recommendations of the parent Ministry, or Cabinet, as the case may be.

Further, during submissions, the Committee noted instances of discordance between the Ministry and some of its agencies on some proposed amendments.

The Committee also notes that the Ministry proposed further and sometimes entirely new amendments during their appearance. This may be indicative that they may not have been consulted on some of the proposed amendments before publishing, or those that they fronted were not well thought out initially.

Finally, the Committee notes that the very comprehensive Health Act 2017 has not been fully operationalized. The Act has the potential to radically affect other health related laws and as such the Ministry should prioritize its full operationalization.

1.0 INTRODUCTION

The Health Laws (Amendment) Bill No. 14 of 2018 was read a First Time on 26th April, 2018. Pursuant to the provisions of Standing Order 127(1) the Bill was committed to the Departmental Committee on Health for consideration pursuant to Standing Order No. 127(1) that provides that; *'a Bill having been read a First time shall stand committed to the relevant Departmental Committee without question being put.'*

The Bill seeks to amend various sections of thirteen Acts of Parliament.

2.0 GENERAL OVERVIEW OF THE PROPOSED AMENDMENTS

The proposed amendments intend to do the following in brief;

1) **The Radiation Protection Act (Cap. 243)**

The Bill proposes to amend the Radiation Protection Act (Cap.243) to confer corporate status to the Radiation Protection Board established under the Act to make it achieve greater functional and operational autonomy in the light of the emerging importance of radiological and nuclear technology and the challenges of radiological nuclear security; and regulate exposure of non-ionizing radiation in this country.

2) **The Pharmacy and Poisons Act (Cap. 244)**

The amendment to the Pharmacy and Poisons Act (Cap. 244) seeks to introduce the interpretation of various technical terms as used in the Act. The amendment also imposes stricter penalties for persons found guilty of practising in premises not registered for purposes of the Act.

3) **The Medical Practitioners and Dentists Act (Cap. 253)**

The Bill proposes to amend the Medical Practitioners and Dentists Act, (Cap. 253) to establish the Council to be in line with the recommendations of the East African Community Partner States, Ministers of Health that directed for harmonization of health regulatory bodies. The Bill also restructures the Council members to align it with what is provided for in *Mwongozo*. The Bill also seeks to protect the profession and the public from illegal practice.

4) The Food, Drugs and Chemical Substances Act (Cap. 254)

The Bill proposes to amend the Food, Drugs and Chemical Substances Act (Cap. 254) to allow for the operationalization of the Health Act (No. 21 of 2017) which provides for the establishment of a single regulatory body for the regulation of health products and health technologies.

5) The Nurses Act (Cap. 257)

The Bill proposes to amend the Nurses Act, (Cap 257) to be in line with the Constitution and *Mwongozo* –Code of Governance for State Corporations, and to provide for the administrative restructuring of the Council so as to make it more effective in its operations.

6) The Kenya Medical Training College Act (Cap. 261)

The Bill proposes to amend the Kenya Medical Training College Act, (Cap 261) to be in line with the Constitution and *Mwongozo* –Code of Governance for State Corporations. The Bill also seeks to clearly define sources of funds of the College and to ensure that it conforms to the Constitution and Public Finance Management Act, 2012.

7) The Narcotic Drugs and Psychotropic Substances (Control) Act (No. 4 of 1994)

the Bill proposes to amend the Narcotic Drugs and Psychotropic Substances (Control) Act (No. 4 of 1994) to abolish the Board which, with the operationalization of the Health Act, would lead to a duplication of roles.

8) The Nutritionists and Dieticians Act (No. 18 of 2007)

The Bill proposes to amend the Nutritionists and Dieticians Act (No. 18 of 2007 to be in line with the Constitution and *Mwongozo* –Code of Governance for State Corporations. The Bill seeks to restructure the membership of the Council to take care of the critical areas for proper functioning of the Council. The Bill also seeks to provide for the stakeholders need to form an independent disciplinary arm of the institute to prevent interference in charging duties.

9) The Kenya Medical Supplies Authority Act (No. 20 of 2013)

The Bill seeks to amend the Kenya Medical Supplies Authority Act, 2013 on the composition of the Authority to clarify on the mode of appointment of the chairperson, and provide for the requirements as a member of the Authority. It further seeks to provide for the corporation secretary for the Authority.

10) The Counsellors and Psychologists Act (No. 14 of 2014)

The Bill seeks to amend the Counsellors and Psychologists Act, 2014, (No. 14 of 2014) to streamline the regulation, operations and practice of counsellors and psychologists in line with Article 43(1)(a) of the Constitution and government policy. The Bill deletes provisions establishing the Counsellors and Psychologists Society of Kenya which will ensure that counsellors and psychologists fall under the purview of the Ministry of Health.

11) Physiotherapists Act (No. 20 of 2014)

The Bill seeks to amend the Physiotherapists Act, 2014 (No. 20 of 2014), to provide a definition of the word physiotherapy which was not done in the Act. The Bill seeks to provide for the Council to determine the professional competence and the standards necessary for training physiotherapists. The Bill also seeks to provide for the inclusion of a representative from the Ministry of Health, the Director of Physiotherapy Services and a person with financial expertise to be part of the Physiotherapists Council.

12) The Health Records and Information Managers Act (No. 15 of 2016)

The Bill proposes to amend the Health Records and Information Managers Act, 2016, (No. 15 of 2016) to align it with the Health Act 2017. The Bill also seeks to align the Act with the "*Mwongozo*" code of governance for state corporations.

13) Clinical Officers (Training, Registration and Licensing) Act (No. 20 of 2017)

The Bill proposes to amend the Clinical Officers (Training, Registration and Licensing) Act, 2017 to ensure compliance with *Mwongozo* and to introduce new provisions to streamline the issue of licensing of clinical officers in private practice.

3.0 PUBLIC PARTICIPATION

The Committee received several memoranda from the following organizations and persons;

Organizations/Institutions

- 1) Ministry of Health
- 2) Kenya National Union of Nurses
- 3) Kenya Medical Association
- 4) Kenya Nutritionists and Dieticians Institute
- 5) Institute of Economic Affairs
- 6) Optometrists Association of Kenya
- 7) Mathari National Teaching and Referral Hospital
- 8) Kenya Pharmaceutical Association
- 9) Kenya Medical Practitioners Pharmacists and Dentists Union
- 10) The Institute for Social Accountability
- 11) The Kenya Association of Radiologists
- 12) Kenya National Union of Medical Laboratory Officers
- 13) Kenya Association of Urological Surgeons
- 14) Federation of Kenya Pharmaceutical Manufacturers
- 15) Veterinary Medicines Directorate
- 16) Kenya Psychological Association
- 17) Association of Kenya Medical Laboratory Scientific Officers
- 18) Kenya Union of Clinical Officers
- 19) National Quality Control Laboratory
- 20) Kenya Veterinary Association
- 21) Union of Veterinary Practitioners, Kenya
- 22) Clinical Nursing Society of Kenya
- 23) Pharmaceutical Society of Kenya
- 24) Kenya Counselling and Psychological Association
- 25) Kenya Institute of Business and Counselling Studies
- 26) Radiation Protection Board
- 27) Kenya Veterinary Board
- 28) Pharmacy and Poisons Board
- 29) Public Health Society of Kenya
- 30) Kenya Guidance, Counselling and Psychological Association
- 31) Kenya Medical Psychologists Association
- 32) RadTech East Africa Company Limited
- 33) Kenya Community Nutrition Association

- 34) Nutrition Association of Kenya
- 35) Society of Radiography in Kenya
- 36) Department of Medical Laboratory Services and KNUMLO Support
- 37) Council of Governors

Individuals

- 1) Dennis Kithinji
- 2) Kevin Bett- student
- 3) Florence Mwangi
- 4) Augustine Lambert
- 5) Henry Ombija-Lecturer, KMTC
- 6) Dickson Ogola- Counselling Psychologist
- 7) Rose Katunge
- 8) Mathew Kipturgo-Lecturer, KMTC
- 9) Matilda Syombua
- 10) Lucy Kiathe- Counselling Psychologist
- 11) Janet Mwongera-KCPA Member
- 12) Collins Ogaa
- 13) Waithira Wanjohi- Counselling Psychologist
- 14) Carol Wanjiru
- 15) Alice Muchiri
- 16) Liz Ndungi- Career Coach/ Counsellor
- 17) Magdalene Musau
- 18) Evelyne Makena
- 19) Jonathan Aramis
- 20) David Kimemia- Counsellor
- 21) Vera Nekesa
- 22) Kamande Muguro- KCPA Mmember
- 23) Nyakinyua Gitu
- 24) Francis Mutuku Ndolo- Counselling Psychologist
- 25) Lilian Mwashuma
- 26) Mary Nyoike- Counselling Psychologist
- 27) Maggy Sidi
- 28) Peter Tonui- Psychology student
- 29) Mary Nzwili
- 30) William Sinkele
- 31) Joshua Langat- Counselling Psychologist
- 32) Catherine Mwati- Practising Counsellor
- 33) Lorna Tumbo- Counselling Psychologist

- 34) Harendra Patel
- 35) Motari Omariba- Counselling Psychologist
- 36) Mercy Wairimu- Counselling Psychologist
- 37) Adah Omedi- Counselling Psychologist
- 38) Francis Ogola Ayoo- Nurse
- 39) Charles Kerigu- Counselling Psychologist
- 40) Kendi Ikiara- Midwife
- 41) Kisii County Counsellors and Psychologists
- 42) Caesar Barare- Diagnostic Radiographer and Radiation Therapist
- 43) Joseph Kimutai Sang
- 44) Joel Muchiri
- 45) Dorah Nicole
- 46) Susan Kariuki- Psychologist
- 47) Dr. kahura Mundia- Maxillofacial Resident, KNH
- 48) Arnold Mbaabuh
- 49) Nyamira Counsellors and Psychologists
- 50) Kimathi Kwiriga
- 51) Stella Munene
- 52) Chrisantus Ndhawa- Counsellor
- 53) Patrick Obel- Counselling Psychologist
- 54) Patrick Kamau- Associate Counsellor
- 55) Samuel Muiruri- Counsellor
- 56) James Keya
- 57) William Otieno- Psychological Counsellor
- 58) Josephine Manyuru
- 59) Anthony Toroitich
- 60) Steve Kimathi- Counselling Psychologist
- 61) Margaret Muchiri
- 62) Miring'u Kuria- Counselling Psychologist
- 63) Amos Brasa Masinde- Psychology Graduate
- 64) Ruth- International Wellness Firm- Counsellor
- 65) Dr. Gladys Mwiti
- 66) Josephine Wanjiru Njuguna- Accredited Supervisor/ Mediator
- 67) Dr. Oliver K. Chesang- Surgeon
- 68) Elizabeth Mwongera
- 69) John Kihato
- 70) Nancy Muriithi
- 71) Vespus Sanguli
- 72) Catherine Kangangi- Counselling Psychologist

- 73) Amos C. Ngetich- Registered Critical Care Nurse
- 74) Mercy W. Samperu- Counselling Psychologist
- 75) Benson Abineri Nyakunu- Practising Midwife
- 76) Muriithi Anastasia Wanjiru- Counselling Psychologist
- 77) Ezekiel Ngubia
- 78) Ephraem Ngota
- 79) Mary Sisa Wanjala- Counselling Psychologist
- 80) Gicheha Gitau
- 81) Joyce Ogega
- 82) Heram Okoth
- 83) Rebecca Njeri Ndungu- Counselling Psychologist
- 84) Charles W. M. Kerigu- Counselling Psychologist
- 85) Kinyua Muriithi
- 86) Humphrey Kariuki
- 87) Beatrice Onyango- Counselling Psychologist
- 88) Winnie Chege- KCPA Member
- 89) Wanjohi Nyamu
- 90) Christina Lenjou
- 91) Dan Mugeru
- 92) George Masagara
- 93) Grace Maina
- 94) Counsellors and Psychologists in Nakuru County

4.0 SITUATIONAL REVIEW AND STAKEHOLDER COMMENTS

The table below juxtaposes provisions of the Sections of each Act proposed for amendment, and proposals from various stakeholders and their justification;

THE PHARMACY AND POISONS ACT (CAP. 244)		
<p>Section 2 Interpretation of terms</p>	<p>Delete the definition of the term "drug".</p> <p>Insert the following definitions in proper alphabetical sequence -</p> <p>"clinical trial" means any systematic study on pharmaceutical products in human subjects, whether in patients or other volunteers, in order to discover or verify the effects of, identify any adverse reaction to, investigational products, to study the absorption, distribution, metabolism and excretion of the products with the object of ascertaining their efficacy and safety;</p> <p>"drug" includes health products and medicinal substances;</p> <p>"health product" includes human and veterinary medicines, medical products, medicinal substances, vaccines, diagnostics, medical devices, blood products, traditional & alternative medicine, therapeutic feeds & nutritional formulations, cosmetics and related products"</p> <p>"health technology" means the application of organized knowledge and skills in the form of devices, medicine, vaccines, procedures and systems developed to solve a health problem and improve the quality of life;</p> <p>"investigational medicinal substance" means a</p>	<p>Veterinary Medicines Directorate "health product"- delete the words "and veterinary" "medical device"- delete the words "or animals" in paragraph (a)</p> <p>Kenya Association of Radiologists Amend definition of 'medical device' to read; a medical device directly related to the practice of pharmacy. Exclude all other devices that fall under other medical specialization.</p> <p>(i) Amend to read: diagnosis, prevention,</p> <p>Matters touching on veterinary medicines, veterinary services, animal health services and veterinary devices fall in the domain of veterinary laws and not human health laws.</p> <p>To provide better clarity</p>

	<p>pharmaceutical form of an active substance or placebo being tested or used as a reference in a clinical trial, including products already with a marketing authorisation but used or assembled (formulated or packaged) in a way different from the authorised form, or when used for an unauthorised indication, or when used to gain further information about the authorised form;</p> <p>“medical device” means any instrument, apparatus, implement, machine, appliance, implant, in vitro reagent or calibrator, software, material or other similar or related article -</p> <p>n(a) intended by the manufacturer to be used, alone or in combination, for humans or animals for: -</p> <ul style="list-style-type: none"> (i) diagnosis, prevention, monitoring, treatment or alleviation of disease; (ii) diagnosis, monitoring, treatment, alleviation of or compensation for an injury; (iii) investigation, replacement, modification or support of the anatomy or of a physiological process; (iv) supporting or sustaining life; (v) control of conception; (vi) disinfection of medical devices; or (vii) providing information for medical or diagnostic purposes by means of in vitro examination of specimens derived from the human body; and <p>(b) which does not achieve its primary intended action in or on the human or animal body by pharmacological, immunological or metabolic means, but which may be assisted in its intended function by such means.</p>	<p>monitoring, treatment or alleviation of diseases in line with a pharmacy qualification.</p> <p>(ii) Amend to read: diagnosis, prevention, monitoring, treatment or alleviation of or compensation for an injury in line with a pharmacy qualification.</p> <p>Federation of Kenya Pharmaceutical Manufacturers</p> <p>Delete the term “health product]” and replace it with “pharmaceutical product” (everywhere it applies) defined as any material or product intended for human or veterinary use presented in its finished dosage form, or as a starting material for use in such a dosage form, that is subject to control by pharmaceuticals legislation in the exporting state and/ or the importing state.</p>	<p>Not all health products are medicines or pharmaceutical products, the formulation and claims are equally important.</p> <p>The amendment introduces the definition of various technical terms as used in the Act.</p>
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Also used interchangeably with medicine or drug.

Kenya Veterinary Board

Delete: the term 'veterinary medicine' in the definition of 'health products'.

Delete: the term 'animal body' in the definition of medical device.

Kinyua Muriithi

Delete: the definition of 'clinical trial'

Kenya Medical Laboratory Technicians and Technologists Board

Amend: the following words; 'health technology', 'health product' and 'medical devices' are given close to the same meaning.

The term is well understood in all health professions and is not prone to misinterpretation.

The intention of amending this section was to bring the realm of clinical trial, health technology, health products and medical devices within the control of the Pharmacy and Poisons Board, contrary to the letter and spirit of sections 2,61,62,63,64,65,66,67,74,75 ,76,77,78,79 and 112 of the Act.

	<p>Also amend the definition of the term 'drug'.</p> <p><u>Union of Veterinary Practitioners, Kenya</u> Delete word 'and veterinary' from the definition of 'health products'.</p> <p>Amend definition of 'medical device' by deleting the word 'or animal'.</p> <p><u>Kenya Pharmaceutical Association</u> Amend: by adding the following terms: i. Pharmaceutical Technologist- "a holder of a diploma in pharmacy from</p>	<p>According to the Chambers 21st Century Dictionary, definition of a drug in light of what is provided in the new section gives out a distorted scientific meaning known of the original term and for all intent and purposes. Therefore the definition of the term 'drug' cannot include 'health products'.</p> <p>To be added since they are not included in the current law.</p>
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	<p>a training institution recognized by the Pharmacy and Poisons Board".</p> <p>ii. Pharmaceutical Practitioner- "a person lawfully carrying on the practice of pharmacy, i.e. a pharmacist or pharmaceutical technologist".</p>	
<p>Delete and substitute therefor the following new section—</p> <p>Establishment of Pharmacy and Poisons Board</p> <p>3. (1) There is established a Board which shall consist of at least nine members as follows -</p> <p>(a) a Chairperson who shall be appointed by the President;</p> <p>(b) the Director of pharmaceutical services;</p> <p>(c) the Permanent Secretary in the ministry for the time being responsible for finance or his representative;</p> <p>(d) the Attorney General or his or her representative</p> <p>(e) the Registrar, who shall be an ex officio member;</p> <p>(f) three other persons, not being</p>	<p>Kenya Association</p> <p>Medical</p> <p>To add subsection (h) stating that one medical practitioner nominated by the Kenya Medical Association to represent prescribers of medicines and handlers of poison.</p> <p>Federation of Kenya Pharmaceutical Manufacturers</p> <p>3(1)(a)- Amend: chairperson appointed should have knowledge</p>	<p>Section 3</p> <p>Establishment of Pharmacy and Poisons Board</p> <p>(1) The Cabinet Secretary shall appoint a Board to be known as the Pharmacy and Poisons Board which shall consist of the following persons—</p> <p>(a) the Director of Medical Services who shall be the chairman;</p> <p>(b) the Chief Pharmacist;</p> <p>(c) the Director of Veterinary Services or a veterinary surgeon, nominated by him;</p> <p>(d) three pharmacists</p>
<p>Inclusion of a medical practitioner to the Board would be responsible for the regulation of their prescribing functions as well as their role in research, including clinical trials.</p>		<p>Should have a general understanding of the profession of pharmacy and the stringent controls therein</p>

<p>representing the categories specified in this paragraph and appointed by the Cabinet Secretary from nine names competitively nominated by the Pharmaceutical Society of Kenya with due regard to gender, in which case the Society shall submit three names in respect of each of the following categories —</p> <p>(i) the public service;</p> <p>(ii) the community pharmacy; and</p> <p>(iii) the Pharmaceutical industry.</p> <p>(e) two persons representing the faculty boards of the departments of pharmacy in universities of whom—</p> <p>(i) one shall be nominated by a forum of public universities teaching pharmacy; and</p> <p>(ii) one shall be nominated by a forum of private universities teaching pharmacy.</p> <p>(f) one pharmaceutical technologist appointed by the Cabinet Secretary from a panel of names submitted by the Kenya</p>	<p>public officers, appointed by the Cabinet Secretary by virtue of their knowledge or expertise in at least one of the following: -</p> <p>(i) community pharmacy;</p> <p>(ii) hospital pharmacy; or</p> <p>(iii) pharmacy training institutions;</p> <p>(g) one pharmaceutical technologist appointed by the Cabinet Secretary from a panel of names submitted by the recognized organization.</p> <p>(2) The persons appointed under subsection (1)(f) shall be appointed by the Cabinet Secretary from among members nominated by their various recognized organizations, each of which shall nominate three candidates taking into consideration gender, ethnicity and regional balance.</p> <p>(3) A person shall not qualify for appointment as a member of the Board under subsection (1)(f) unless such person is the holder of a degree in the relevant field from a university recognized in Kenya and has at least six years managerial experience.</p>	<p>and experience in pharmacy and health.</p> <p>3(1)(b)- Add: Director of Veterinary Services or a Veterinary surgeon, nominated by the president</p> <p>Kenya Veterinary Board Amend: Board to contain Director of Veterinary Services to bring on board expertise in relation to Veterinary Medicines.</p> <p>Kinyua Muriithi Delete: the attorney general or his or her representatives.</p> <p>Kenya Pharmaceutical Association 3(1)(f)- Delete and replace with, "one other persons not being public officers,</p>	<p>and the health sector in general.</p> <p>This is to avoid the split of the regulatory control and amalgamate in one single authority for control of pharmaceutical products, avoid high cost by double fees to different regulatory bodies, avoid issues in regard to expert market on licensing authority.</p> <p>The AG can be relied upon to offer legal advice therefore he should not be part of the Board.</p>
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Pharmaceutical Association.

(2) Those members of the Board appointed under paragraphs (d), (e) and (f) of subsection (1)—

(a) shall hold office for a period of three years but shall be eligible for reappointment;

(b) may at any time resign by instrument in writing addressed to the Chairman.

(3) Notwithstanding the provisions of subsection (2), the Cabinet Secretary may, if at any time it appears to him that a member of the Board has failed to carry out his functions under this Act, revoke the appointment of that person and shall appoint another person under subsection (1) in place of that member for the remainder of the period of office of that member, and if that member is nominated or elected by any other authority or body, his nomination or election shall be deemed to have been annulled on account of the revocation of his appointment to the Board.

(4) The Cabinet Secretary may appoint an

appointed by the cabinet secretary by virtue of their knowledge or expertise”.

3(1)(g)- Delete and replace with, “three pharmaceutical technologists appointed by the Cabinet Secretary from a panel of names submitted by Kenya pharmaceutical association”.

Council of Governors

3(1)(f)- Replace paragraph (f) with the following words—

(f) not more than four people appointed by the County Governments and having special knowledge in safe handling of radiation sources, all of them should come from the Counties

Pharmaceutical technologists are under represented on the Board (only one at the moment) while pharmacist have 5 slots. Currently pharmacists are 3372 and pharmaceutical technologists are 9362.

The Boards' function are intergovernmental in nature and therefore the need to restructure its composition to accommodate the interests of the two levels of government adequately.

The provision of the Cabinet secretary to make the appointments negates the spirit of devolution. Counties should make appointments for their representatives

<p>appropriately qualified person to act temporarily in the place of any member of the Board other than the Chairman in the case of death, illness, resignation or absence from Kenya.</p> <p>(5) The appointment, removal, death, resignation of any member shall be notified in the <i>Gazette</i>.</p> <p>(6) The Board shall be a body corporate with perpetual succession and a common seal, and shall be capable in its corporate name, of—</p> <p>(a) suing and being sued;</p> <p>(b) acquiring, holding and disposing of property;</p> <p>(c) borrowing and lending money.</p>		<p>3(2)- The persons appointed under subsection (1) (f) shall be appointed by the County Governments taking into consideration gender, ethnicity and regional balance</p>	<p>The provision of the Cabinet secretary to make the appointments negates the spirit of devolution. Counties should make appointments for their representatives</p> <p>The amendment retains the number of Board members as 9, but removes the power to establish the Board from the Cabinet Secretary. The Chairperson shall be appointed by the President, while the Cabinet Secretary shall appoint three other persons who shall not be public officers.</p>
<p><u>New section</u></p>	<p>Insert the following new sections immediately after section 3 –</p>	<p><u>Kinyua Muriithi</u></p> <p>3A(a)- Amend: replace the word 'guidelines' with 'rules'.</p> <p>3A(h)- Delete: the entire text.</p> <p>3A(j)- Amend: replace</p>	<p>Drug Regulatory Authorities should publish rules to operationalize sections of the law.</p> <p>Proposed powers already included in licensing covered in (c), (d), (e), (f).</p>

<p>Powers of the Board.</p>	<p>3A. The Board may –</p> <ul style="list-style-type: none"> (a) formulate guidelines for regulating the manufacture, import and export, distribution, sale and use of medical products; (b) grant or withdraw authorization for conducting clinical trials of medical products; (c) grant or withdraw marketing authorization for medical products subject to appropriate conditions and revise such conditions for marketing authorization as necessary; (d) recall medical products from the market; (e) grant or withdraw licenses to manufacturers, wholesalers, retailers, importers, exporters and distributors; (f) investigate conduct related to the manufacture, import, export storage, distribution, sale and use of medical products; (g) levy, collect and utilize fees for services rendered; (h) prescribe the standards appropriate for new medical products; new uses, dosages, and formulations of existing medical products; and such other categories as may be appropriate 	<p>all words after 'administrative' with "disciplinary proceedings against licensees."</p> <p>3B(2)(a)- Amend: replace all words after 'safety' with the words 'quality and efficacy of health technologies'.</p> <p>3B(2)(c)- Delete: 'the defined codes of practice and other"</p> <p>3B(3) (f, h, i, j, l)- Delete the paragraphs.</p>	<p>The section may be misconstrued to give board powers of ODPP.</p> <p>Packaging-Container closure system-is determined by the manufacturer and justified during application. KEMSA should handle matters to do with distribution.</p> <p>Codes of practice are advisory and are also issued by professional bodies to its membership.</p> <p>f) Only pharmacists should/are legally authorized to practice pharmacy in accordance with existing law and universally accepted norms.</p> <p>h) Registration as a pharmacist is sufficient authority to practice pharmacy. No need to make those in private practice acquire PLs.</p> <p>i) Covered under section 23.</p> <p>l) Board to enforce prescribed</p>
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	<p>(i) Constitute technical and expert advisory committees</p> <p>(j) institute administrative, civil and/or criminal proceedings;</p> <p>(k) exercise such other powers as necessary for the performance of its functions.</p> <p>Functions of the Board.</p> <p>3B. (1) The Board shall be responsible for the regulation of health products, technologies and the profession of pharmacy.</p> <p>(2) The Board shall perform the following functions in relation to regulation of health products and technologies –</p> <p>(a) advise the government and government agencies in all matters relating to the safety, packaging and distribution of medicines;</p> <p>(b) ensure that all medicinal products manufactured in, imported into or exported from the country conform to prescribed standards of quality safety and efficacy;</p> <p>(c) ensure that the personnel, premises and practices employed in the manufacture, storage,</p>	<p><u>Council of Governors</u></p> <p>3B(2)- The Board shall perform the following functions in relation to regulation of health products and technologies advise the National and County governments and their agencies in all matters relating to the packaging and distribution of medicines;</p>	<p>standards and liaise with professional bodies for enforcement of code(s).</p> <p>The body should be an intergovernmental body which serves the interests of both levels of government in the constitution and hence the need for clarity in this regard</p> <p>The new sections specify the powers and functions of the Board.</p>
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marketing, distribution and sale of medicinal substances comply with the defined codes of practice and other prescribed requirements;

(d) enforce the prescribed standards of quality, safety, and efficacy of all medicinal substances manufactured, imported into or exported out of the country;

(e) grant or revocation of licenses for the manufacture, importation, exportation, distribution and sale of medicinal substances;

(f) maintain a register of all authorized medicinal substances

(g) publish, at least once in every three months, lists of authorized or registered medicinal substances and of products with marketing authorizations;

(h) regulate licit use narcotic, psychotropic substances and precursor chemical substances in accordance with either the Single Convention on Narcotic Drugs of 1961, the Convention on Psychotropic Substances 1971, and the UN Convention against Illicit Traffic Drug and Psychotropic Substances, 1988;

(i) consider applications for approval and alterations of dossier intended for use in marketing authorization of medicinal substances;

- (j) inspect and license all manufacturing premises, importing and exporting agents, wholesalers, distributors, pharmacies (including those in hospitals and clinics) and other retail outlets;
- (k) prescribe a system for sampling, analysis and other testing procedures of finished medicinal products released into the market to ensure compliance with the labeled specifications;
- (l) conduct post-marketing surveillance of safety and quality of medicinal products
- (m) monitor the market for the presence of illegal or counterfeit medicinal substances;
- (n) regulate the promotion, advertising and marketing of medicinal substances in accordance with approved product information;
- (o) approve the use of any unregistered medicinal substance for purposes of clinical trials and compassionate use;
- (p) approve and regulate clinical trials on medicinal substances;
- (q) disseminate information on medical products to health professionals and to the public in order to promote their rational

use;

- (r) collaborate with other national, regional and international institutions on medicinal substances regulation;
- (s) advise the Cabinet Secretary on matters relating to control, authorization and registration of medicinal substances; and
- (t) any other function relating to regulation of medicinal substances.

(3) The Board shall perform the following functions in relation to regulation of the profession of pharmacy—

- (a) promote the practice of pharmacy that complies with universally accepted norms and values;
- (b) prescribe the minimum requirements and consider and approve the qualifications of persons wishing to be registered as pharmacists under this Act;
- (c) prescribe the minimum requirements and consider and approve the qualifications of persons wishing to be enrolled as pharmaceutical technologists under this Act;
- (d) maintain a register of all persons registered or enrolled under this Act;

	<p>(e) prescribe and conduct examinations for purposes of recognition, registration or enrolment under this Act;</p> <p>(f) to set level of practice for the different cadres practicing pharmacy</p> <p>(g) approve institutions to be established or accredited under the Universities Act, 2012 for the training of pharmacy practitioners;</p> <p>(h) license the private practice of pharmacists and pharmaceutical technologists under this Act;</p> <p>(i) approve and license the premises for the practice by pharmacists and pharmaceutical technologists under this Act;</p> <p>(j) regulate the professional conduct of pharmacists and pharmaceutical technologists and take such disciplinary measures as may be appropriate to maintain proper professional standards and ethics;</p> <p>(k) establish, approve and accredit continuing professional educational programs for pharmacists and pharmaceutical technologists;</p> <p>(l) establish and maintain a professional code of conduct for pharmacists and pharmaceutical</p>	
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	<p>technologists; and (m) perform any other function relating to regulation of the profession of pharmacy.</p>	
<p>Section 4(5) (5) The registrar shall cause details of all business conducted or transacted at meetings of the Board to be entered regularly in a minute book kept for the purpose under his direction. The minutes of the proceedings of each meeting shall be submitted at the meeting following, and, if then passed as correct, shall be confirmed by the signature of the Chairman and shall, when so confirmed, be <i>prima facie</i> evidence in all courts and places that the minutes are an accurate record of the proceedings so recorded.</p>	<p>Delete the word "registrar" and substituting therefor the words "corporation secretary".</p>	<p>The amendment removes the administrative functions of the Board from the Registrar to the corporation secretary. However the position of the corporation secretary is not created in any of the amendments in the Bill.</p> <p>The amendments instead provide for the position of a Chief Executive Officer</p>

<p>Section 5 The registrar (1) There shall be a registrar of the Board who shall be the Chief Pharmacist. (2) The registrar shall perform such duties and exercise such powers, in addition to those required under the provisions of this Act to be performed and exercised, as the Board may from time to time direct.</p>	<p>Delete the expression "Chief Pharmacist" appearing in subsection (1) and substitute therefor the expression "Chief Executive Officer". Insert the following subsections after subsection (2)- (3) The Registrar shall be responsible to the Pharmacy and Poisons Board for the day to day management of its affairs. (4) The Board shall through a transparent competitive recruitment process appoint the Registrar, who - (a) is a Kenyan citizen; (b) holds at least a pharmacy degree and is registered to practice pharmacy in Kenya; (c) belongs to the professional body of registered pharmacists; (d) has at least ten years of pharmacy practice experience; (e) has served in a senior management position for a period of at least ten years; and (f) meets the requirements of Chapter Six of the Constitution. (5) The Registrar shall hold office for a term of four years, but is eligible for reappointment subject to good performance</p>	<p>Kinyua Muriithi 5(4)(b)- replace words 'pharmacy degree' with 'masters' degree in a pharmacy specialization.</p>	<p>The registrar will be overseeing a highly technical team and needs to hold high qualifications.</p> <p>The amendment provides for the qualifications for appointment as a Chief Executive Officer, who shall also be the Registrar of the Board.</p>
<p>Section 6(1) Register of pharmacists (1) The registrar shall keep a register of pharmacists in the prescribed form.</p>	<p>Insert the words "and pharmacy specialists" immediately after the word "pharmacists".</p>		<p>The amendment expands the scope of registers to be kept by the Registrar.</p>

<p>Section 20 Pharmacist to display name and registration certificate</p> <p>(1) It shall not be lawful for any person to carry on the business of a pharmacist unless the name and certificate of registration of the person having control of the business are conspicuously exhibited in the premises in which the business is carried on.</p> <p>(1A) No person shall carry on the business of a pharmaceutical technologist unless the name and certificate of enrolment of the person having control of the business are conspicuously exhibited in the premises in which the business is carried on.</p>	<p>Insert the following subsection immediately after subsection (1A) -</p> <p>(1B) No person shall operate the business of a pharmacist or pharmaceutical technologist without the presence of a registered pharmacist or enrolled pharmaceutical technologist in the premises where such business is being carried out.</p>	<p>Kinyua Muriithi 20(1A), (1B)- Delete the subsections.</p>	<p>1A) The Board has misinterpreted this section to mean that pharmaceutical technologists can be licensed to practice pharmacy leading to wanton destruction of the profession.</p> <p>1B) Requirements for presence of authorised person(s) adequately covered by Sec 19.</p>
<p>Section 20(2)</p> <p>(2) Any person contravening the provisions of this section shall be guilty of an offence and shall be liable on conviction to a fine not exceeding twenty thousand shillings, or to imprisonment for a term not exceeding one year, or to both.</p>	<p>Delete the words "twenty thousand shillings" and substitute therefor the words "one million shillings".</p>		<p>The amendment provides a mandatory requirement for the presence of a registered or enrolled pharmacist in premises within which the business of a pharmacist is carried out.</p> <p>The amendment further increases the penalty of anyone found to be in breach of the section, from twenty thousand shillings to one million shillings.</p>

<p>Section 23</p> <p>Premises to be registered</p> <p>(1) It shall not be lawful for any person to carry on the business of a pharmacist except in premises registered in accordance with this section.</p> <p>(2) Application for registration of premises shall be made to the Board in the prescribed form, and shall be accompanied by such fee, not exceeding one hundred shillings, in respect of the registration of any set of premises, as may be prescribed.</p> <p>(3) The registration of any premises under this section shall become void upon the expiration of thirty days from the date of any change in the ownership of the business carried on therein.</p> <p>(4) The Board may, for good and sufficient reason to be stated in writing, refuse to register or may cause to be deleted from the register any premises which in the Board's opinion are or have become unsuitable for the</p>	<p>Insert the following subsection immediately after subsection (1) -</p> <p>(1A) No person shall carry on the business of a pharmaceutical technologist except in premises registered in accordance with this section.</p> <p>Delete the words "thirty thousand shillings" appearing in subsection (6) and substitute therefor the words "one million shillings".</p>	<p>The amendment prohibits the carrying on of pharmaceutical business in premises not registered for that purposes, and increases the penalty for breach of the section from thirty thousand shillings to one million shillings.</p>
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<p>carrying on therein of the business of a pharmacist. (5) It shall be the duty of the registrar to keep a register in the form prescribed of all premises registered under the provisions of this section. (6) Any person contravening the provisions of subsection (1) of this section shall be guilty of an offence and shall be liable to a fine not exceeding thirty thousand shillings or to imprisonment for a term not exceeding three years or to both such fine and imprisonment.</p>	<p><u>New section</u></p>
<p>Insert the following section immediately after section 23 -</p> <p>Power to close premises.</p> <p>23A. (1) Any premises having been deleted from the register of premises by the Board or any premises which in the Board's opinion have become unsuitable for the carrying on of the business of a pharmacist or pharmaceutical technologist shall be closed.</p> <p>(2) The Board shall give the person in charge of the premises at least fourteen days' notice of the intended closure under subsection (1) and the reasons thereof in writing.</p> <p>(3) If at the expiry of the period under</p>	<p><u>Kinyua Muriithi</u> 23A- Delete.</p> <p><u>Pharmaceutical Society of Kenya</u> Amend: pharmacists, pharmaceutical technologists and pharmacy specialists should not be equated.</p>
	<p>This section is absurd as it purports to give custody to the Board of products belonging to someone else.</p> <p>There is a need to separate and define the different levels of practice.</p> <p>The amendment introduces a new section providing for the</p>

	<p>subsection (2), the Board is not satisfied that the improvements required have been made, an authorized officer shall seize all the stock held and order closure of the premises.</p>	<p>power of the Board to close premises which are not fit to carry on pharmaceutical business.</p>
<p><u>New section</u></p>	<p>subsection (2), the Board is not satisfied that the improvements required have been made, an authorized officer shall seize all the stock held and order closure of the premises.</p>	<p>Section 25A(2) as it currently is may affect the mandate of the NQCL as provided in sections 35A and 35I. There is therefore need to align the proposed clause with sections 35A(5) and 35I(b) on the mandate of the NQCL and to maintain the spirit of the MoH to preserve the NQCL.</p>
	<p>subsection (2), the Board is not satisfied that the improvements required have been made, an authorized officer shall seize all the stock held and order closure of the premises.</p>	<p>Marketing Authorization can be granted to entities other than manufacturers who cannot follow different standards from procedures. GMPs are requirements for manufacturers that should be enforced during registration of products.</p>
	<p>subsection (2), the Board is not satisfied that the improvements required have been made, an authorized officer shall seize all the stock held and order closure of the premises.</p>	<p>Marketing Authorization can be granted to entities other than manufacturers who cannot follow different standards from procedures. GMPs are requirements for manufacturers that should be enforced during registration of products.</p>
	<p>subsection (2), the Board is not satisfied that the improvements required have been made, an authorized officer shall seize all the stock held and order closure of the premises.</p>	<p>Marketing Authorization can be granted to entities other than manufacturers who cannot follow different standards from procedures. GMPs are requirements for manufacturers that should be enforced during registration of products.</p>

New section

Inserting the following new sections after subsection 25-

Grant of **25A.** (1) A person shall not import, export, manufacture or offer for sale any medicinal substance containing any poison approved under section 25(1) unless a marketing authorization has been issued by the Board in accordance with this Act and prescribed regulations.

(2) The Board shall ensure that any person granted a marketing authorization under subsection (1) complies with prescribed current good manufacturing practice requirements.

(3) The Board shall, according to prescribed rules, ensure the availability of investigational medicinal substances to patients who are not participants in clinical trials but may benefit from these substances for their conditions that do not have known treatment.

Clinical trials. **25B.** (1) A person shall not commence any clinical trial unless he has been granted approval by the Board.

(2) Any person who intends to

Kinyua Muriithi
25A(2)- Delete.

National Quality Control Laboratory

Amend 25A(2)- The Board shall ensure that any person granted a market authorization under subsection (1) complies with prescribed current good manufacturing practice requirements as provided in sections 35A(5) and 35I(b) of this Act.

<p>Section 27 Wholesale dealer's licence (1) If the Board is satisfied that it is in the public interest that a licence to deal as a wholesale dealer in poisons should be issued or renewed it may, on application being made to the Board in writing on such form as may be prescribed, and on payment of the prescribed fee, issue to the applicant a licence in the form prescribed, or, as the</p>	<p>commence a clinical trial shall make an application to the Board in the prescribed form and the application shall be accompanied by the study protocol in the prescribed format and the prescribed fee.</p> <p>(3) The study protocol submitted under subsection (2) shall include a post-trial access program to ensure access of investigational medicinal substances by participants in a trial before grant of marketing authorization by the Board.</p> <p>(4) The Board shall prescribe guidelines for evaluation of applications made under subsection (2) to be implemented for accelerated evaluations during emergency situations, epidemics and outbreaks.</p>	<p>The amendment provides for the power of the Board to authorize the manufacture or sale of poisons under the Act, as well as the power of the Board to give approvals for clinical trials.</p>	<p>The amendment creates the offence of dealing in poisons in wholesale without a licence. The proposed new subsection does not however prescribe a penalty for the offence.</p>
<p>Insert the following subsection after subsection (6) –</p> <p>(7) It shall be an offence to deal as a wholesale dealer in poisons without a licence granted by the Board under subsection (1).</p>			

case may be, renew such licence.

(2) The Board may refuse to issue or renew, or may revoke, a licence under this section, for any good and sufficient reason relating either to the applicant or licensee, or to the premises in which the business is, or is proposed to be, carried on, and an appeal shall lie from such refusal or revocation to the Cabinet Secretary, whose decision thereon shall be final.

(3) A separate licence under this section shall be required in respect of each set of premises in which the business of the licensee is carried on.

(4) No licence shall be issued or renewed under this section unless the person applying for or holding such licence is or has a registered pharmacist in control of the distribution of the poisons and the registered pharmacist is resident in Kenya.

(5) Every licence issued under this section shall expire on the 31st day of December in the year of issue, subject

<p>to renewal.</p> <p>(6) The Registrar shall keep a register of all licences issued by the Board under this section.</p>			
<p>Section 35A(5)</p> <p>(5) The Director of the National Drug Quality Control Laboratory or any member of the Laboratory staff authorized by him shall have power to enter and sample any medicinal substance under production in any manufacturing premises and certify that the method of manufacture approved by the Board is being followed.</p>	<p>Delete the words "The Director of the National Drug Quality Control Laboratory" and substitute therefor the words "The Registrar".</p> <p>Insert the following subsections immediately after subsection (5)-</p> <p>(6) A person who manufactures for sale any counterfeit or unregistered health product commits an offence and is liable to a fine not exceeding three million shillings or to imprisonment for a term not exceeding three years or both.</p> <p>(7) A person who manufactures for sale any health products without a license to manufacture medicinal substances commits an offence and is liable to a fine not exceeding ten million shillings or to imprisonment for a term not exceeding five years or to both.</p>	<p><u>National Quality Control Laboratory</u> Delete.</p>	<p>The amendment removes the power to enter and sample medicinal substances, from the Director of the National Quality Control Laboratory to the Registrar of the Board.</p> <p>The amendment also creates the offence of illegal manufacture of health products.</p>
<p>Section 35D</p> <p>Establishment of the National Drug Quality Control Laboratory</p> <p>(1) There shall be established a National Quality Laboratory which shall be used as a facility for—</p> <p>(a) the examination and</p>	<p>Insert the following new subsection immediately after subsection (1) -</p> <p>(2) There shall be established a Scientific advisory committee appointed by the Board whose functions shall be determined by the Board.</p>	<p><u>National Quality Control Laboratory</u> Delete.</p>	<p>The amendment establishes a scientific advisory committee.</p>

<p>testing of drugs and any material or substance from or with which and the manner in which drugs may be manufactured, processed or treated and ensuring the quality control of drugs and medicinal substances;</p> <p>(b) performing chemical, biological, bio-chemical, physiological and pharmacological analysis and other pharmaceutical evaluation; and</p> <p>(c) testing, at the request of the Board and on behalf of the Government, of locally manufactured and imported drugs or medicinal substances with a view to determining whether such drugs or medicinal substances comply with this Act or rules made thereunder.</p>				<p>Section 27(b) of the State Corporations Act provides that one of the functions of the State Corporations Advisory Committee is to advise the President, in consultation with the Attorney-General and the Treasury, on the dissolution of state corporations.</p>
<p>Section 35E</p> <p>Incorporation of the Laboratory</p> <p>The Laboratory shall be a body corporate with perpetual succession and a common seal and shall have power to sue and be sued in its corporate name and to</p>	<p>Delete.</p>	<p><u>National Quality Control Laboratory</u></p> <p>Delete.</p>		

<p>acquire, hold and dispose of movable and immovable property for its own purposes.</p>	<p>In 11/2/2016 the SCAC classified the NQCL as a category PC4B state corporation on the basis of its operational nature.</p>
<p>Section 35F Board of Management (1) There shall be a Board of Management for the Laboratory, which shall consist of nine members to be appointed by the Pharmacy and Poisons Board. (2) A member of the Board of Management appointed under subsection (1) shall hold office for three years but shall be eligible for re-appointment. (3) A quorum of the Board of Management shall be five members. (4) The Board of Management shall meet not less than four times each calendar year. (5) The Director shall be the secretary of the Board of Management. (6) Subject to this subsection, the Board of Management may regulate its own procedure.</p>	<p>National Quality Control Laboratory Delete proposed amendment (deletion). Amend 35F(1)- There shall be a Board of Management for the Laboratory which shall consist of nine members to be appointed by the Cabinet Secretary.</p>
<p>Delete.</p>	<p>The NQCL should be made independent and autonomous from the Pharmacy and Poisons Board.</p>

Section 35G

Functions of the Board of Management

The functions of the Board of Management shall be—

- (a) to administer the property and funds of the Laboratory in such manner and for such purposes as shall, in the opinion of the Board of Management, promote its best interests;
- (b) to receive, on behalf of the Laboratory, grants-in-aid, gifts, donations, fees, subscriptions or other moneys and make disbursements therefrom;
- (c) to make regulations governing the appointment, conduct and discipline of employees of the Laboratory;
- (d) in consultation with the Cabinet Secretary, to draw up a scheme of service for employees of the Laboratory;
- (e) to administer the approved terms and conditions of service, including appointments, dismissals, remuneration and retiring benefits of

Delete.

National Quality Control Laboratory
Delete.

employees of the Laboratory; and (f) to appoint such employees upon terms and conditions to be laid down by the Board of Management, after consultation with the Cabinet Secretary, as it considers necessary for the proper and efficient administration of the Laboratory.

Section 35H

Director

(1) The Board of Management shall appoint a Director who shall be the chief executive of the Laboratory responsible to the Board of Management for the day to day management of the Laboratory.

(2) The Director shall hold office on such terms and conditions of service as may be specified in the instrument of his appointment.

Delete.

National Quality Control Laboratory
Delete.

<p><u>Section 35I</u> Powers of the Director The Director shall have power— (a) to develop and administer a data bank on quality assurance on behalf of the Board of management; (b) to inspect premises and issue certificates of compliance; and (c) to advise and obtain advice from the Board of Management in regard to any matter within his purview under this Act.</p>	<p>Delete.</p>	<p><u>National Quality Control Laboratory</u> Delete.</p>	
<p><u>Section 35J</u> Financial provisions (1) The funds to be used for the management of the Laboratory shall consist of all moneys received or recovered under this Part and moneys provided by Parliament. (2) The Laboratory may accept gifts, donations, subscriptions, fees and other moneys for the implementation of approved programmes.</p>	<p>Delete.</p>	<p><u>National Quality Control Laboratory</u> Delete.</p>	

(3) The financial year of the Laboratory shall be the same as the Government financial year.

(4) The estimates for the expenditure of the Laboratory shall be submitted through the Cabinet Secretary for approval by the Treasury and shall make provisions for—

(a) the payment of salaries, allowances and all other charges in respect of the employees of the Laboratory;

(b) the payment of pensions, gratuities and all other charges in respect of retirement benefits payable out of the funds of the Laboratory;

(c) the procurement, proper maintenance, repair and replacement of equipment and other immovable property of the Laboratory;

(d) the proper maintenance of the buildings and grounds of the Laboratory;

(e) the creation of such reserve funds to meet future or contingent liabilities in respect of retiring benefits,

insurance or replacement of building, or equipment or in respect of such other matters as the Board of Management may think fit;

(f) the cost of Board of Management meetings; and

(g) capital expenditure.

(5) The Board of Management shall cause to be kept and the Director shall keep all proper books of accounts of the Laboratory.

(6) The accounts of the Laboratory shall be audited by the Auditor-General (Corporations).

(7) The disposal of fixed assets by the Board of Management shall be subject to the approval of the Treasury.

Section 35K

35K. Certificate of analysis

- (1) A certificate of analysis shall be issued and signed by the Director for every analysis done.
- (2) The certificate of analysis issued under subsection (1) shall be in the prescribed form.

Delete.

National Quality Control Laboratory
Delete.

<p>Section 44(1) Rules</p> <p>(1) The Cabinet Secretary may, after consultation with the Board, make rules with respect to any of the following matters or for any of the following purposes—</p> <p>(a) prohibiting the sale by retail of a specified Part I poison except on a prescription duly given by a duly qualified medical practitioner, dentist or veterinary surgeon and for prescribing the form and regulating the use of those prescriptions;</p> <p>(b) prohibiting, regulating or restricting the sale of Part II poisons or of any specified Part II poisons by any of the persons licensed under section 28 or section 32 of this Act or by any class of such persons;</p> <p>(c) exempting from any of the provisions of this Act relating to the sale of poisons any article or substance containing poison or any class of such articles or substances or for dispensing with or relaxing</p>	<p>Insert the following paragraphs after paragraph (n) -</p> <p>(o) the practice of pharmacy; and</p> <p>(p) generally for the better carrying out of the objects and purposes of this Act.</p>	<p>The amendment introduces new matters in respect of which the Cabinet Secretary may prescribe regulations.</p>
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with respect to poisons any of the provisions contained in Part III of this Act;

(d) prohibiting, regulating or restricting the manufacture, sale or advertising of drugs, pharmaceutical preparations and therapeutic substances;

(e) the safe custody and storage of poisons;

(f) the importation, exportation, transport and labelling of poisons;

(ff) the importation and exportation of drugs;

(g) the containers in which poisons may be supplied;

(h) the addition to poisons of specified ingredients for the purpose of rendering them readily distinguishable as poisons;

(i) the compounding and dispensing of poisons;

(j) the period for which any books or registers required to be kept for the purposes of this Act are to be preserved;

(k) the fees to be paid for anything to be done under this Act;

(l) the procedure to be observed by the Board;

(m) the conduct of inquiries

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by the Board under section 12 of this Act and the attendance of witnesses and the production of evidence thereat;

(mm)prescribing the qualification for registration of pharmaceutical analysts;

(n) anything which is by this Act required or authorized to be prescribed.

(2) The power to make rules under this section with respect to poisons or drugs includes the power to make rules with respect to any class of poisons or drugs or any particular poison or drug.

(3) All rules made under this section shall be laid before the Legislative Council as soon as may be after they are made, and if a resolution is passed within the next twenty days on which the Council sits after any such rule is laid before it that the regulation be annulled, it shall thenceforth be void, but without prejudice to the validity of anything done thereunder or to the making of any new rule.

<p><u>Section 46-new subsection</u></p>	<p>Insert the following subsection immediately after subsection (4) -</p> <p>(5) The Board may retain or confiscate a medicinal substance that it has reasons to believe is a counterfeit or is illegally imported and the substance, if found to be counterfeit or illegally imported shall be disposed at the expense of the owner or importer of such substance.</p>		<p>The amendment introduces the power of the Board to confiscate counterfeit or illegal drugs.</p>
<p><u>New section</u></p>	<p>Insert the following new section immediately after section 50 -</p> <p>Offences.</p> <p>50A. (1) A person who engages in the manufacture, importation, exportation, compounding, storage, promotion or distribution of medicinal substances -</p> <p>(a) that is unfit for use in humans or in animals;</p> <p>(b) that is adulterated;</p> <p>(c) that has upon it any natural or added deleterious substances which renders it injurious to human or animal health;</p> <p>(d) that has been manufactured, prepared, preserved, packaged or stored for sale under insanitary and or unfavourable conditions;</p> <p>(e) that has been labeled, packaged or promoted in a manner that is false, misleading, deceptive or likely to create an erroneous impression regarding</p>	<ul style="list-style-type: none"> • Veterinary Medicines Directorate • Union of Veterinary Practitioners, Kenya • Kenya Veterinary Board <p>50A(1)(a)- delete “or in animals”</p> <p>50A(1)(c)- delete “or animal”</p>	<p>Matters touching on animal health services and veterinary devices fall in the domain of veterinary laws and not human health laws.</p> <p>The amendment introduces offences under the Act, but does not however prescribe a penalty for the offences.</p>

	<p>its source, character, value, quality, composition, potency, merit or safety; or (f) or any counterfeit starting materials; commits an offence under this Act.</p>	
THE MEDICAL PRACTITIONERS AND DENTISTS ACT (CAP. 253)		
Section 2 Interpretation of terms	<p>Delete the definition of "Board" and substitute therefor with the following new definition—</p> <p>"Council" means the Kenya Medical and Dental Council constituted under section 3;</p> <p>Delete the definition of "register" and substitute therefor with the following new definition -</p> <p>"register" means the register of medical practitioners, dental practitioners, and health institutions which the Council is required by section 5 to keep;</p> <p>Insert the following new definitions in proper alphabetical sequence -</p> <p>"Cabinet Secretary" means the Cabinet Secretary responsible for health;</p> <p>"general practice" means the practice of general medicine or dentistry other than specialist practice as defined in the Act;</p> <p>"health institution" means a facility that is operated or designed to provide in-patient or out-patient treatment,</p>	<p>Kenya Union of Clinical Officers</p> <p>"register" means the register of medical practitioners, dental practitioners, and health institutions for private practice by medical and dental practitioners which the Council is required by section 5 to keep;</p> <p>"health institution" means a facility that is operated or designed to provide in-patient or out-patient treatment, diagnostic or therapeutic interventions, nursing.</p> <p>The KMPD Board regulates the practice of medical and dental practitioners only. The role of registering health institutions is vested in the Central Board of Health established in the Public Health Act-s.153(1).</p> <p>(This section however provides for the prescribing of Regulations for the conduct and inspection of health institutions, and does not provide for the registration of the same).</p> <p>The amendment seeks to change the Medical Practitioners and Dentists Board from a Board to a Council</p> <p>This amendment widens the scope of registers to be kept to</p>

<p>diagnostic or therapeutic interventions, nursing, rehabilitative, palliative, convalescent, preventative or other health service;</p> <p>“intern” means a person holding a medical or dental degree or its equivalent recognized by the Council or a person who has passed the internship qualifying examination, who is undergoing a prescribed period of internship in a recognized institution;</p> <p>“internship” means a prescribed period of employment during which a medical or dental graduate works under supervision to fulfil registration requirements;</p> <p>“licence” means an annual practicing licence issued under section 12 of this Act;</p> <p>“professional misconduct” means a serious digression from established or recognized standards or rules of the profession, that includes a breach of such codes of ethics or conduct as may be prescribed for the profession from time to time;</p> <p>“specialist” means a medical practitioner or dentist who has completed an approved post graduate training programme in a particular field of medicine or dentistry, and who has thereafter gained sufficient experience and demonstrated to the Council’s satisfaction adequate knowledge and skill, in his chosen field;</p> <p>“specialist practice” means the practice of medicine or dentistry in a specialized field;</p>	<p>rehabilitative, palliative, convalescent, preventative or other health service for private practice by medical and dental practitioners;</p> <p>Clinical Council Officers</p> <p>“register” means the register of medical practitioners, dental practitioners and health institutions run by medical and dental practitioners which the Council is required by section 5 to keep.</p> <p>“health institution” means a facility that is operated or designed to provide in-patient or out-patient treatment, diagnostic or therapeutic interventions, nursing, rehabilitative, palliative, convalescent,</p>	<p>include registers of health institutions</p> <p>The amendments further seek to introduce new definitions of terms as used in the Act.</p> <p>The KMPDB regulates the practice of medical and dental practitioners only. The role of registering and licensing of all health institutions is vested in the Central Board of Health as established in the Public Health Act.</p>
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preventative or other health service for private practice by medical and dental practitioners.

Kenya Association of Clinical Pathologists

Definition of health institution should include 'clinical laboratory services'. Should also add the following words after 'health institution', 'private practice by medical practitioners and dental practitioners.

Public Health Society of Kenya

Add: the words

This is to clarify that one of the functions of the proposed Kenya Medical and Dental Council shall include the registration and licensing of clinical laboratories which serve as clinics/ offices where doctors specialized in pathology and/or laboratory medicine offer consultation services, collect samples for analysis, carry out sample analysis, interpret results, provide diagnosis and offer clinical correlation. This distinguishes a clinical laboratory from the laboratories licensed by the Kenya Medical Laboratory Technicians and Board (KMLTTB) which registers and licenses laboratories run by laboratory technologists.

There's need to clarify with the

	<p>'public health practitioner' in the definition of 'register'.</p> <p>Add: the words 'and/or public health' in the definition of 'specialist practice'.</p> <p>Also add 'related to healthcare industry' on the definition.</p> <p>Add: the words 'and/or public health' in the definition of 'specialist'.</p> <p>Also add 'related to healthcare industry' on the definition.</p> <p>Add: the words 'the list of health institutions, institutions or organizations providing public health specialist services', in the definition of 'health institutions'.</p>	<p>Council the difference between public health specialization and sub specialization as our members have several unique and diverse qualifications of public health specialists.</p> <p>The 'specialized field' in public health is broad. Some specialists in medicine and dentistry have additional public health qualification.</p> <p>The 'chosen field' in public health is multidisciplinary compared with the clinical postgraduate specialties in medicine and dentistry. The specialization fields in public health are currently expanding rapidly.</p> <p>Current list only includes curative services except the preventive part. PHSK members provide services in institutions which may not be traditional curative service delivery points. Some institutions may claim to provide public health specialist services but do not have the technical or organizational</p>
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<p>Section 3 Construction of terms in any written law The expressions "legally qualified practitioner" and "duly qualified medical practitioner" or any words importing a person recognized by law as a medical practitioner or a member of the medical profession, when used in any written law with reference to that person, shall be construed to mean a person registered as a medical practitioner under this Act or, where the context so admits, a person who is licensed by the Board under section 13.</p>	<p>Delete and substitute therefor with the following new section—</p> <p>Establishment of the Council 3. (1) There is established a Council to be known as the Kenya Medical and Dental Council.</p> <p>(2) the Council shall be a body corporate with perpetual succession and a common seal and capable, in its corporate name, of -</p> <p>(a) suing and being sued; (b) taking, purchasing, or otherwise acquiring, holding, charging and disposing of movable and immovable property; and (c) doing or performing all such other things or acts necessary for the proper performance of its functions under this Act as may lawfully be done or performed by a body corporate.</p>	<p>Clarify: what "serious digression in health practice would be for public health specialists' in the definition of 'professional misconduct'.</p>	<p>capacity.</p> <p>A code should be developed and submitted to the public health specialists and practitioners' council for regulation under this clause.</p>
			<p>The amendment deletes the earlier definition of a medical practitioner which is now to be contained in the interpretation section. The amendment replaces this section with a new section providing for the establishment of the Kenya Medical and Dental Council.</p>

<p><u>New section</u></p>	<p>Insert the following new section immediately after section 3</p> <p>Composition of the Council.</p> <p>3A. (1) The Council shall consist of -</p> <p>(a) a chairperson, who shall be appointed by the President, and who shall be a specialist medical or dental practitioner of good standing with at least fifteen years of practice, five of which shall be in a managerial position;</p> <p>(b) the Director General or a designated representative;</p> <p>(c) three persons appointed by the Cabinet Secretary, nominated as follows -</p> <p>(i) one person who shall be a representative of universities in Kenya which have the power to grant a qualification which is registerable under this Act;</p> <p>(ii) one person who shall be a representative of the Kenya Medical Association;</p> <p>(iii) one person who shall be a representative of Kenya Dental Association; and</p> <p>(d) four persons appointed by the</p>	<p><u>Kenya Medical Practitioners Pharmacists and Dentists Union</u></p> <p>3A(1)(a)- insert the word "clinical" immediately after the words "five of which shall be in a".</p> <p>3A(1)(b)- insert the words "eligible for registration by the Council established by this Act" at the end of the sentence.</p> <p>3(A)(1)(d)(iii)- delete the paragraph and substitute with "one person who shall be a representative of the County Governments in the capacity of a County Director of Health and eligible for registration by the Council established by this Act".</p> <p>3(A)(1)(d)(iv)- delete the paragraph and substitute with "one</p>	<p>This amendment provides for the new composition of the Council. While the Board previously had 13 members, the Council shall be composed of 11 members.</p> <p>In terms of this amendment, the CEO shall also be the Registrar and the secretary to the Council.</p> <p>The amendment further introduces grounds for removal of the members of the Council.</p>
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<p>Cabinet Secretary, as follows -</p> <p>(i) one person who shall be nominated by Kenya National Commission on Human Rights;</p> <p>(ii) one person who shall be a representative of the private sector in health;</p> <p>(iii) one person who shall be a representative of the public; and</p> <p>(iv) one person with financial expertise</p> <p>(e) the Corporation Secretary who shall be an <i>ex officio</i> member of the Council; and</p> <p>(f) the Chief Executive Officer who shall be the Registrar and an <i>ex officio</i> member and also the secretary to the Council.</p> <p>(2) A person appointed as a member of the Council under this Act, other than the <i>ex officio</i> member, shall serve for a term of three years and shall be eligible for reappointment for a further and final term of three years.</p> <p>(3) The Chairperson shall preside at all meetings of the Council and, in the absence for any reason of the chairperson, the other members of the Council who are present at that meeting shall choose one of the</p>	<p>person who shall be the representative of the Kenya Medical Practitioners and Pharmacists and Dentists Union”</p> <p>3A(1)(e)- Delete.</p> <p><u>Kenya Association of Urological Surgeons</u></p> <p>3A(1)(a)- insert additional words- a chairperson, who shall be appointed by the President, and who shall be a specialist medical or dental practitioner of good standing with at least fifteen years of practice in a tertiary hospital or medical teaching institution, five of which shall be in a clinical managerial position;</p> <p>3A(b)- qualifications and role of Director General should be defined.</p>	<p>The chairperson’s qualifications should be higher than those proposed.</p> <p>The current provision is superfluous and undefined.</p>
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	<p>members to act as the chairperson at the meeting.</p> <p>(4) A member of the Council may -</p> <p>(a) at any time resign from office by thirty days' notice in writing to the Chairperson;</p> <p>(b) be removed from office if the member -</p> <p>(i) has been absent from three consecutive meetings of the Council without permission of the Chairperson;</p> <p>(ii) is convicted of an offence involving dishonesty or fraud;</p> <p>(iii) is convicted of a criminal offence and sentenced to imprisonment for a term exceeding six months or more; or</p> <p>(iv) is incapacitated by prolonged physical or mental illness or is deemed otherwise unfit to discharge his or her duties as a member of the Council.</p> <p>(5) Six members of the Council shall constitute a quorum at any meeting.</p>	<p>3A(c)(i)- set clear criteria for the nomination of the universities representatives.</p> <p>3A(c)(ii)- should provide for representatives from the various each of the medical specialties recognised by the Board in Kenya.</p> <p>3A(d)(ii)- the representative from the private sector should be a medical or dental practitioner of good standing working in the private or faith-based health sector.</p> <p>3A(d)(iii)- Delete.</p>	<p>There are several universities, both public and private, offering medical and dental training.</p> <p>The Kenya Medical Association does not represent the entire medical fraternity.</p> <p>Both the private and the faith-based sector play important roles in provision of healthcare services.</p> <p>The role of a representative of the public is already catered for by the representative of the Kenya National Commission on Human Rights.</p>
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<p>(6) The powers of the Council shall not be affected by any vacancy in the membership thereof.</p> <p>(7) The Council shall meet at least once in every three months.</p> <p>(8) The Chairperson, may, with prior approval of the Council, appoint suitable persons to assist in carrying out particular decisions of the Council or particular duties or investigations for the Council.</p> <p>(9) Subject to the provisions of this Act, the Council may regulate its own procedure.</p>	<p>3A(d)(iv)- Delete.</p> <p><u>Kenya</u> <u>Medical Association</u></p> <p>3A(1)(c)(ii)- Two persons of opposite gender who shall be representatives of the Kenya Medical Association.</p> <p>3A(1)(d)(iv)- Delete amendment since the proposed Council can recruit a person with financial expertise.</p> <p>3A(2)- Appointees to the Council other than ex officio members should serve for a 5 year term and shall be eligible for reappointment for a final 5 year term.</p> <p><u>Transgender Education and Advocacy</u></p> <p>3A(a)- Chairperson to be elected from the</p>	<p>Financial expertise can be provided by the finance department of the Council.</p> <p>No need to include person with financial expertise on membership of a medical and dental professional regulatory agency, instead recruit a member appointed by the Council.</p> <p>Increase in the nominees to two so as to ensure gender balance. Maintain a 5 years term as has been the practice in Kenya and other countries in Africa.</p>
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	<p>members of the Council during the first meeting of the board.</p> <p>3A(1)(d)(iii)- Three persons nominated by the Public Service Commission (PSC) who shall represent the public</p> <p>3A(1)(d)(iv)- One person with financial expertise nominated by the Institute of Certified Public Accountants of Kenya (ICPAK).</p> <p>3A(1)(f)- Add: the Chief Executive Officer shall be appointed by the Council through a competitive process.</p> <p><u>Kenya Association of Radiologists</u> 3A(a)- Chairperson</p>	<p>The chairperson should not be appointed by the president to ensure meritocracy, professionalism and neutrality.</p> <p>There is need to enhance representation and protection of the interests of the public who are the clients of medical practitioners and dentists. The process of nomination of representatives should be competitive and accountable to members of the public.</p> <p>Council members should be recruited based on competitiveness, therefore a professional body would be best placed to recruit 'persons with financial expertise'.</p> <p>Ensures that the process is competitive and not marred with favoritism, nepotism, corruption and vested interests.</p>
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<p>should have 15 years of practice, teaching in a medical school or which they shall be in a clinical managerial position.</p> <p>3A(b)- title of the Director General is replaced with vice chairperson who shall be a medical practitioner or dentist elected by the Council of members.</p> <p>3A(c)(i)- should be clear on selection criteria for representative since there are both private and public universities and also each university to provide a representative.</p> <p>3A(c)(ii)- representative should not come from the Council which is the Kenya Medical Association.</p> <p>Public Health Society of Kenya</p>	<p>This is because their qualification and the role is superfluous and undefined.</p> <p>There are several universities both private and public offering medicine.</p> <p>There is the Medical Practitioners and Dentists Board constituted which has 7 members elected by the medical</p>
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	<p>3A(1)(a)- Add: 'public health specialist practitioner' on the qualification of one being appointed as a chairperson of the Council.</p> <p>3A(1)(c)- CS appointees should be four and not three.</p> <p><u>Dr. Kahura Mundia</u> 3A(1)(c)- Amend: i) create two representative positions to the council as the universities training professionals are bound to increase. ii) Automatic qualification to be a council member, there is no need/requirement of appointment by the Cabinet Secretary since this person is duly elected by the members of the</p>	<p>fraternity.</p> <p>Most public health work in managerial positions compared with medical or dental specialists who provide clinical services. This position should be held by a public health specialist where we could incorporate models of rotational co-chairing.</p> <p>Fourth person should include representative from the Public Health Society of Kenya.</p>
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profession. A second position should be available for members of the medical profession to be electing a neutral representative to the Council.

iii) Automatic qualification to be a council member, there is no need/requirement of appointment by the Cabinet Secretary since this person is duly elected by the members of the profession. A second position should be available for members of the medical profession to be electing a neutral representative to the Council.

3A(1)(d)(ii) and (iii)-
Delete.

This is a duplication of roles since the KNCHR represents the interests of the public and safeguards all aspects on

	<p>3A(1)(d)(iv)- Delete.</p> <p>3A(1)(e)- Delete.</p> <p><u>Council of Governors</u> 3A(1)(d)- Replace paragraph (d) with the following words— (d) not more than four people appointed by the County Governments and all of them should come from the Counties and have regard to gender balance.</p>	<p>observance of human rights laws as it relates to the practice of medicine and dentistry.</p> <p>The Council is mandated to create a finance department, the head of which is someone qualified in matters related to finance in respect of professional functions of the Council.</p> <p>The functions are similar to those of the CEO.</p> <p>The proposed Kenya Medical and Dental Council has no provision for County Governments' representation yet the Councils' functions are intergovernmental in nature and therefore the need to restructure its composition to accommodate the interests of the two levels of government adequately.</p> <p>Counties will be relied upon for assessment of health facilities before registration and accreditation.</p> <p>The provision of the Cabinet</p>
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<p>secretary to make the appointments negates the spirit of devolution. Counties should make appointments for their representatives</p>			
<p>These roles are covered by the Council for University Education.</p> <p>Peer review should be conducted in conjunction with members of the relevant speciality association/ society.</p> <p>There is a difference between regulating conduct of medical practitioners and dentists with the operations of health institutions. Council should ensure that Health Institutions adhere to the high standards e.g., human rights, medical fees, structures, disposal of medical waste.</p> <p>The curricula and course description of public health</p>	<p>Kenya Association of Urological Surgeons</p> <p>4(1)(c), (d)- Delete.</p> <p>4(1)(e)- delete the words 'peer review'</p> <p>Transgender Education and Advocacy</p> <p>4(1)(m)- Amend: Regulate the operations of health institutions and take such disciplinary measures for any form of misconduct.</p> <p>Public Health Society of Kenya</p> <p>4(1)(a)- Add: the words 'public health'</p>	<p>Delete and substitute therefor with the following new section -</p> <p>Functions of 4. (1) The functions of the Council shall be to -</p> <p>(a) establish and maintain uniform norms and standards on the learning of medicine and dentistry in Kenya;</p> <p>(b) approve and register medical and dental schools for training of medical and dental practitioners;</p> <p>(c) prescribe the minimum educational entry requirements for persons wishing to be trained as medical and dental practitioners;</p> <p>(d) maintain a record of medical and dental students;</p> <p>(e) conduct internship qualifying examinations, preregistration examinations, and peer reviews as deemed appropriate by the Council;</p> <p>(f) inspect and accredit new and existing institutions for medical and dental internship training in Kenya;</p>	<p>Section 4</p> <p>The Medical Practitioners and Dentists Board</p> <p>(1) For the purposes of this Act, there shall be constituted a Board to be known as the Medical Practitioners and Dentists Board, which shall consist of the following members, all of whom shall be citizens of Kenya and either medical or dental practitioners of good character and good standing—</p> <p>(a) a chairman to be appointed by the Minister;</p> <p>(b) the Director of Medical Services or the person for the time being acting in that post;</p> <p>(c) a Deputy Director of Medical Services, to be nominated by the Minister;</p> <p>(d) four medical practitioners to be nominated by the</p>

<p>Minister;</p> <p>(e) a representative of each of the universities in Kenya which have power to grant a qualification which is registrable under this Act;</p> <p>(f) five medical practitioners and two dentists, who shall be elected by the votes respectively of all medical practitioners and of all dentists at the prescribed times and in the prescribed manner, but, notwithstanding the provisions of this subsection, the Minister may, if at any time it appears to him that the Board has failed to carry out any of its functions under this Act in the national interest, revoke or annul the appointment, nomination or election of any member of the Board and may himself nominate a new member in the place of that member for the remainder of the period of office of that member under subsection (3).</p> <p>(2) The Board shall elect a deputy chairman from amongst its members.</p> <p>(3) The members referred to in paragraphs (a), (c), (d), (e)</p>	<p>(g) license eligible medical and dental interns;</p> <p>(h) determine and set a framework for professional practice of medical and dental practitioners;</p> <p>(i) register eligible medical and dental practitioners;</p> <p>(j) regulate the conduct of registered medical and dental practitioners and take such disciplinary measures for any form of professional misconduct;</p> <p>(k) register and license health institutions;</p> <p>(l) carry out inspection of health institutions;</p> <p>(m) regulate health institutions;</p> <p>(n) accredit continuous professional development providers;</p> <p>(o) issue certificate of status to medical and dental practitioners; and</p> <p>(p) do all such other things necessary for the attainment of all or any part of its functions.</p>	<p>4(1)(b)- Add: the words 'public health schools and institutions'</p> <p>4(1)(c)- Add: the words 'and public health specialists' in the provision provided.</p> <p>4(1)(h)- Add: the words 'public health specialist practitioners'</p>	<p>specialty courses should be submitted to the Council for review and adoption.</p> <p>Based on the curricula and course description above and confirmation of technical and organizational capacity, approve public health schools and institutions after site visit and verification and capacity assessment.</p> <p>Public health specialists' training is multidisciplinary, since if a doctor and a dentist enroll and qualify for these courses, they are related to public health thus becoming public health specialists.</p> <p>It should include first degree graduates in public health who are not doctors or dentist. the Council needs to regulate in their practice because at the moment PHSK has no mandate to do this and they are graduates so they do not fall under the regulation of Public Health Association.</p>
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and (f) of subsection (1) shall hold office for a period of five years from the date of their appointment, nomination or election, as the case may be, but shall be eligible for re-appointment, re-nomination or re-election.

(4) The chairman or, in his absence, the deputy chairman shall preside at all meetings of the Board and, in the absence for any reason of both the chairman and the deputy chairman, the other members of the Board who are present at any meeting shall choose one of the members to act as chairman at that meeting.

(5) Each member of the Board shall have a deliberative vote and the chairman for the time being at any meeting of the Board shall, in addition to his deliberative vote as a member of the Board, have a casting vote.

(6) If any member of the Board, other than the chairman, the Director of Medical Services or the Deputy Director of Medical Services nominated under

Kenya Association of Urological Surgeons

491)(c) and (d)-Delete.

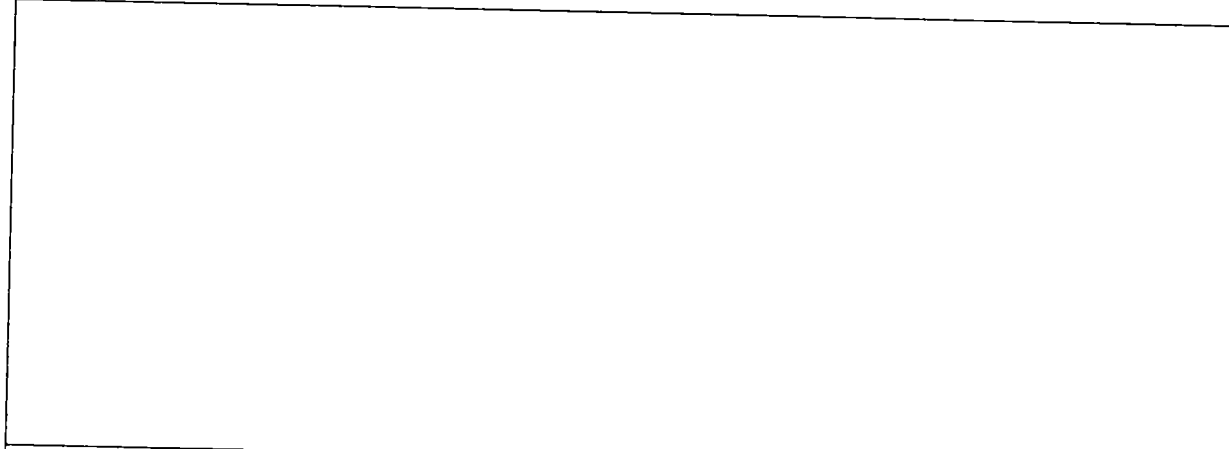
These roles are covered by the Council of University Education.

This amendment seeks to delete the previous section that provided for the establishment of the Board, and replaces this with a new section 4 providing for the functions of the Council.

paragraph (c) of subsection (1), is temporarily incapacitated by illness or is otherwise prevented from performing his duties as a member thereof, the Board may appoint a medical or dental practitioner to act in the place of that member during his incapacity or absence.

(7) When a member who has been appointed, nominated or elected under paragraph (a), (c), (d), (e) or (f) of subsection (1), dies or resigns from the Board, or is otherwise permanently unable to attend meetings of the Board, the Minister may, after consulting the Board, appoint a medical or dental practitioner to act as a member of the Board until such time as a permanent member is appointed, nominated or elected to fill the vacancy.

(8) Seven members of the Board (including the chairman of the meeting) shall constitute a quorum at any meeting of the Board, and all acts, matters or things authorized or required to be



done by the Board may be decided at any meeting at which a quorum is present.

(9) The powers of the Board shall not be affected by any vacancy in the membership thereof.

(10) The Board shall meet at least once in every three months.

(11) The chairman or, in his absence, the deputy chairman, shall convene a meeting of the Board on receiving written requests by at least five of its members.

(12) A member of the Board who absents himself from two consecutive meetings without prior permission from the chairman or, in his absence, from the deputy chairman, shall automatically lose his place on the Board and the vacancy so created may be filled temporarily in accordance with subsection (7).

(13) The chairman or, in his absence, the deputy chairman, may, with prior approval of the Board, appoint suitable persons, who may be persons employed in the public

<p>service, to assist in carrying out particular decisions of the Board or particular duties or investigations for the Board.</p> <p>(14) Subject to the provisions of this Act and to any rule as to procedure made under section 23, the Board may regulate its own procedures.</p> <p>(15) The Board shall be a body corporate with perpetual succession and a common seal, and shall be capable in its corporate name of—</p> <p>(a) suing and being sued;</p> <p>(b) acquiring, holding and disposing of property;</p> <p>(c) borrowing and lending money.</p>			<p>The Chairperson appointed by the President must not only be a specialist but also actively engaged in the practice of medicine or dentistry so as to offer the Council the best guidance in the regulation of professionals and institutions.</p> <p>The Director General qualification as per the Health Act is a registered medical or</p>
<p><u>New section</u></p>	<p>Insert the following new sections immediately after section 4—</p> <p>Committees of the Council may constitute the following committees -</p> <p>(a) an training, assessment, registration and human resources committee;</p> <p>(b) a disciplinary and ethics committee whose mandate includes;</p> <p>(i) conducting preliminary</p>	<p><u>Kenya Practitioners and Pharmacists and Dentists Union</u></p> <p>4A(1)- Insert new paragraph (e)-</p> <p>(e) peer review committee whose mandate shall be to—</p> <p>(i) Conduct preliminary professional</p>	<p>Insert the following new sections immediately after section 4—</p> <p>Committees of the Council may constitute the following committees -</p> <p>(a) an training, assessment, registration and human resources committee;</p> <p>(b) a disciplinary and ethics committee whose mandate includes;</p> <p>(i) conducting preliminary</p>

	<p>inquiries; (ii) regulating professional conduct for counties; and (iii) ensuring fitness to practice; (c) an inspections, licensing, finance and general purposes committee; and (d) an audit and risk committee.</p> <p>(2) The Council may from time to time appoint such other ad hoc committees as it may deem necessary for the effective carrying out of its functions under this Act.</p> <p>(3) Any committee appointed by the Council under subsection (2) or (3) shall consist of such persons as the Council deems necessary.</p> <p>(4) The Corporation Secretary shall be the secretary of all committees appointed under this Act.</p> <p>Powers of 4B. The Council shall have all powers necessary for the proper performance of its functions under this Act and in particular, but without prejudice to the generality of the foregoing, shall have power to—</p> <p>(a) control, supervise and administer the assets of the Council in such manner and for such purpose as</p>	<p>inquiry on all applicants for medical or dental registration; (ii) Advise the Council on registration of foreign trained Kenyan citizens foreign citizens seeking registration as medical or dental specialists; (iii) Advise the Council on issuance of status or certificate of good standing; and (iv) Peer review foreign medical dental specialists.</p> <p>4C- Insert new subsection (4)-</p>	<p>dental practitioner. His nominated representative must also be of similar qualification.</p> <p>Oversight and peer regulation by the doctors and dentists is important but currently lacking in the Council as constituted which gives it a questionable mandate.</p> <p>This amendment introduces new sections to the Act to provide for the establishment of committees by the Council, the powers of the Council as well as for the CEO and staff of the Council.</p> <p>While the CEO shall be the secretary to the Council, the Corporation secretary shall be the secretary to all committees</p>
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	<p>best promotes the purpose for which the Council is established;</p> <p>(b) determine the provisions to be made for capital and recurrent expenditure and for the reserves of the Council;</p> <p>(c) receive any grants, gifts, donations or endowments and make legitimate disbursements therefrom;</p> <p>(d) enter into an association with other bodies or organizations within or outside Kenya as the Council may consider desirable or appropriate and in furtherance of the purpose for which the Council is established;</p> <p>(e) open a bank account or banking accounts for the funds of the Council; and</p> <p>(f) invest any funds of the Council not immediately required for its purposes.</p> <p>Chief Executive Officer.</p> <p>4C. (1) There shall be a Chief Executive Officer of the Council who shall be appointed by the Council through a competitive process and whose terms and condition of service shall be determined by the Council in an instrument of his appointment or otherwise in writing from time to time.</p> <p>(2) The Chief Executive Officer shall be responsible for the daily</p>	<p>(4) The Chief Executive Officer shall be a person eligible for registration or registrable by the Council established in this Act.</p> <p><u>Kenya Association of Urological Surgeons</u></p> <p>4A(b)(ii)- Delete and with "countries" substitute with "country"</p> <p>4C(1)- the CEO should be a medical practitioner or dentist of good standing with additional degree in management.</p> <p><u>Transgender Education and Advocacy</u></p> <p>4A(1)(b)(iii)- ensuring fitness to practice and operate</p>	<p>established under the Act.</p> <p>This is to ensure the most qualified persons is appointed as CEO.</p> <p>'Practice' is for medical practitioners and dentists; 'operate' is for health institutions.</p>
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management of the staff and affairs of the Council

(3) The Chief Executive Officer shall serve for a term of four years and shall be eligible, subject to satisfactory performance, to reappointment for a single further term of four years.

Staff of the Council.

4D. The Council may employ such professional, technical and other staff for the proper and efficient discharge of its functions on such terms and conditions as the Council may determine.

Council of Governors
4A(1)(a)- Delete the word "An" immediately at the beginning of paragraph (a) replace with the word "a"

Grammatical error

Section 5(1), (2), (3)

Registrar and register

(1) For the purpose of this Act, there shall be a Registrar of Medical Practitioners and Dentists.

(2) The Director of Medical Services shall be the Registrar, and shall perform such duties in connection with the register as are prescribed by this Act.

(3) The Registrar shall keep a register of medical practitioners and dentists in the prescribed form.

Delete the words "of Medical Practitioners and Dentists".

Delete the words "Director of Medical Services" and substitute therefor the words "Chief Executive Officer".

Delete and substitute therefor the following subsection -

(3) The Registrar shall annually maintain -

- (a) a register for interns;
 - (b) a register of medical and dental practitioners;
 - (c) a register of community oral health officers;
 - (d) a register of general practitioners;
 - (e) a register of specialist practitioners;
 - (f) a register of foreign medical and dental practitioners;
 - (g) a register of approved medical and dental schools;
 - (h) a register of approved medical and dental schools;
 - (i) a register of approved internship training centres;
 - (j) a register of health institutions; and
- such other registers as may from time to time be required by the Council.

Kenya

Association

5(3)(j)- Renumber it to read Sec 5(3)(k)

Add Sec 5(3)(j) to read: to maintain a register of clinical officers.

Medical

The registrar maintains a register of clinical officers so as to ensure all who provide clinical services are registered under one regulatory authority to ensure quality of care for all Kenyans.

Public Health Society of Kenya

5(3)(f)- Add: the words 'public health specialist' to the provision provided.

This will distinguish public health specialists as they are listed in a separated register.

5(3)(g)- Add: the words 'public health schools and institutions' to the provision provided.

The Council should approve and regulate Public Health Schools, institutions and training Centers regardless of the fact that their graduates are registered with a Council. There is a critical need to regulate the quality of public health training.

This amendment also provides that the CEO shall be the Registrar. Under the current Act, the Director of Medical Services is the Registrar of the Board.

			<p>The amendment further widens the scope of the registers to be maintained by the Registrar to include interns, community oral health officers as well as health institutions.</p>
<p>Section 6 Registration of medical practitioners and dentists (1) Every person eligible to be registered as a medical</p>	<p>Delete and substitute therefor with the following new section - Registration of medical practitioners 6. (1) A person who - (a) is a citizen of Kenya;</p>	<p>Kenya Association of Urological Surgeons 6(5)(a)- the persons must be peer reviewed by the</p>	<p>This is in keeping with</p>



<p>practitioner or as a dentist may apply in the prescribed form to the Registrar for registration in the register, and every such application shall be accompanied by the prescribed fee.</p> <p>(2) Where a person has complied with the provisions of subsection (1) and has been accepted by the Board as being eligible for registration and has satisfied the Registrar that he has been so accepted, he shall be registered.</p>	<p>and dentists.</p> <p>(b) is a holder of a degree or other qualification obtained from a University in Kenya or the East African Community which is recognized by the Council as making him eligible for registration;</p> <p>(c) presents proof of completion of internship; and</p> <p>(d) satisfies the Council that he is a person of good moral standing, may apply to the Council for full registration as a medical or dental practitioner under this Act.</p> <p>(2) A person who -</p> <p>(a) is a citizen of Kenya;</p> <p>(b) is a holder of a degree or other qualification obtained from a University outside Kenya or outside the East African Community which is recognized by the Council as making him eligible for registration;</p> <p>(c) has passed the internship qualifying examinations;</p> <p>(d) presents proof of completion of internship; and</p> <p>(e) satisfies the Council that he is a person of good moral standing, may apply to the Council for full registration as a medical or dental practitioner under this Act.</p>	<p>relevant medical association/ society before registration to ascertain fitness to practice.</p> <p>Kenya Medical Association</p> <p>6(1)- Insert paragraph (c) after paragraph (b)</p> <p>A member of an umbrella professional association representing medical and/or dental practitioners, as the case may be.</p> <p>Kenya Association of Urological Surgeons</p> <p>6(5)- insert requirement of proof that they are no similarly qualified Kenyan or East African Community partner state citizens willing to take up</p>	<p>international practice.</p> <p>All practitioners be members of a professional association which will ensure they maintain good and ethical professional conduct and will be providers of professional development.</p>
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	<p>(3) A person who -</p> <ul style="list-style-type: none"> (a) is a citizen of Kenya; (b) is a holder of a degree or other qualification obtained from a University outside Kenya or outside the East African Community which is recognized by the Council as making him eligible for registration; (c) presents proof of completion of internship in the country in which he trained; (d) has passed pre-registration examination; (e) satisfies the Council that he is a person of good moral standing, <p>may apply to the Council for full registration as a medical or dental practitioner under this Act.</p> <p>(4) A person who -</p> <ul style="list-style-type: none"> (a) is a citizen of the East African Community; (b) is a holder of a degree or other qualification recognized by the Council as making him eligible for registration; (c) presents proof of registration in their country of origin; and (d) satisfies the Council that he is a person of good moral standing, <p>may apply to the Council for reciprocal registration as a medical or dental</p>	<p>those positions, and must be peer reviewed by the relevant medical association/society before registration to ascertain fitness to practice. This is in keeping with the international standards.</p> <p>This amendment sets out the specific circumstances and conditions under which a person shall be registered as a medical or dental practitioner under the Act.</p>
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	<p>practitioner under this Act.</p> <p>(5) A person who -</p> <p>(a) is not citizen of Kenya or of a partner state of the East African Community;</p> <p>(b) is a holder of a degree or other qualification recognized by the Council as making him eligible for registration;</p> <p>(c) presents proof of registration from the country of origin or any other jurisdiction;</p> <p>(d) satisfies the Council that, he has acquired sufficient knowledge of, and experience in, the practice of medicine or dentistry as the case may be; and</p> <p>(e) satisfies the Council that he is a person of good moral standing, may apply to the Council for temporary registration as a foreign medical or dental practitioner under this Act.</p> <p>(6) An application made under subsections (1), (2), (3), (4) or (5) shall be in the prescribed form and shall be accompanied by the prescribed fee.</p> <p>(7) The Council shall consider every application made under this section and shall register the applicant if satisfied that the applicant is -</p> <p>(a) duly qualified in terms of this</p>	
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	<p>section; and (b) a fit and proper person to be so registered.</p>		
<p>Section 7 Certificate of registration The Registrar shall issue to every person registered under this Act, a certificate in the prescribed form.</p>	<p>Delete the words "the Registrar" and substitute therefor the words "the Council". Insert the words "of registration" immediately after the word "certificate".</p>		<p>This amendment gives the Council the power to issue registration certificates, a power which was previously held by the Registrar in terms of the current Act.</p>
<p>Section 9(1) Publication of register (1) The Registrar shall publish in the <i>Gazette</i> as soon as may be practicable after registration the name of every medical practitioner or dentist registered in the register.</p>	<p>Delete.</p>		<p>This deletion removes the requirement of publishing in the <i>Gazette</i> the names of persons registered under the Act.</p>
<p>Section 9(2) (2) The Registrar shall once in every year, as soon as convenient after 1st January, but not later than 31st March, publish in the print or electronic media, as approved by the Board, a list containing the names, qualifications and registered addresses of all registered medical and dental</p>	<p>Delete the words "the Registrar" and substitute therefor the words "the Council". Insert the words "and health institution" immediately after the words "dental practitioners".</p>		<p>This amendment gives the Council the power to publish in the print and electronic media, the names and addresses of all registered medical practitioners and health institutions. However this subsection should be amended further as it still contains the word "Board". The subsection should be deleted and substituted therefor the</p>

<p>practitioners.</p>	<p>following new subsection—</p> <p>“(2) The Council shall once in every year, as soon as convenient after 1st January but not later than 31st March, publish in the print or electronic media, a list containing the names, qualifications and registered addresses of all registered medical and dental practitioners and health institutions.”</p> <p>Further, it is unclear why the obligation to publish names in the Gazette would be replaced merely by an obligation to publish in the print and electronic media.</p>	<p>This amendment removes the requirements for registration which are comprehensively provided for in the new amendment in section 6, and instead provides for the insertion of additional qualifications in the register in case one obtains a further higher degree.</p>
<p>Section 11</p> <p>Persons eligible to be registered as medical or dental practitioners</p> <p>(1) Subject to the provisions of this section, a person shall be eligible for registration under this Act as a medical or dental practitioner if he is the holder of a degree, diploma or other qualification which is recognized by the Board as</p>	<p>Delete and substitute therefor with the following new section -</p> <p>Registration of higher qualification for medical practitioners or dentists.</p> <p>11. A person registered under this Act who has obtained a higher degree or qualification than the qualification in respect of which he has been registered may apply to the Council to have that higher degree or qualification inserted in the register in addition to the qualification previously registered, on the payment of a prescribed fee.</p>	<p>11. A person registered under this Act who has obtained a higher degree or qualification than the qualification in respect of which he has been registered may apply to the Council to have that higher degree or qualification inserted in the register in addition to the qualification previously registered, on the payment of a prescribed fee.</p>

making him eligible for registration, and—

(a) after obtaining that degree, diploma or other qualification, he has engaged in training employment in a resident medical capacity in one or more institutions approved by the Board for such period, being not less than one year, as the Board may approve; and

(b) he satisfies the Board that, whilst engaged in training employment under paragraph (a), he has acquired sufficient knowledge of, and experience in, the practice of medicine or dentistry, as the case may be; and

(c) he satisfies the Board that he is a person of good moral character and a fit and proper person to be registered under this Act.

(2) Where the Board does not recognize a degree, diploma or other qualification in medicine or dentistry held by a person as making him eligible for registration, it shall take steps to assess his suitability for

registration and for the purpose of so doing may require him to attend an interview and to undergo any oral or written examination.

(3) The Board may, after assessing the suitability for registration of a person under subsection (2), direct that before registration he shall undergo such further period of training or pass such further examination as it may specify.

(4) The Board shall not authorize the registration of a person until it is satisfied that the requirements of subsection (1) have been fulfilled or, in the case of a person referred to in subsection (2), that the requirement of paragraphs (a), (b) and (c) of subsection (1) have been fulfilled and that any further period of training or examination directed by it under subsection (3) has been completed or passed.

(5) The Board may, where it considers it expedient so to do, delegate the assessment of suitability for registration

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<p>under subsection (2) to a committee of the Board which shall, after making the assessment, make recommendations to the Board accordingly.</p>			
<p><u>New section</u></p>	<p>Insert the following new section immediately after section 11A -</p> <p>Recognition of specialists.</p> <p>11A. The Council may recognize a medical practitioner or dentist as a specialist or subspecialist in any of the fields under the Act or the rules made thereunder.</p>		<p>This amendment introduces the requirement for the recognition of specialists and subspecialists by the Council.</p> <p>This new section should however be renamed as section 11B.</p>
<p><u>Section 12</u></p> <p>Person registered may have additional qualifications inserted in the register</p> <p>Every person registered under this Act who has obtained a higher degree or qualification than the qualification in respect of which he has been registered shall be entitled to have that higher degree or additional qualification inserted in the register in substitution for or in addition to the qualification previously registered, on the payment of the prescribed fee.</p>	<p>Delete and substitute therefor the following section -</p> <p>Specialist licences.</p> <p>12. (1) The Council shall issue in accordance with this section and rules made under this Act, general, specialist and any other practising licences as the Council shall determine from time to time authorizing medical practitioners and dentists named therein to practice medicine or dentistry.</p> <p>(2) An application for a practising licence under subsection (1) shall be made to the Council in the prescribed form and accompanied by the prescribed fee.</p> <p>(3) All medical practitioners and dentists shall be required to satisfy the</p>	<p><u>Public Health Society of Kenya</u></p> <p>12(1)- Add: the words 'public health' to the provision stated.</p>	<p>Currently, the Council provides for licenses for doctors and dentists however, only specialists recognition is given to the public health specialists.</p> <p>The recognition of additional qualifications is already provided in the new section 11A.</p> <p>The new section 12 provides for the recognition and issuance of specialist licences.</p>

Council's requirement for continuing professional development before the renewal of annual practising licences.

(4) A practising licence shall bear the date of day on which it is issued and shall have effect from that day:

Provided that a practising licence issued during the first month of any practicing year shall have effect, for all purposes, from the beginning of that month.

(5) The practicing year for a practicing licence shall be from the first of January to the thirty-first of December:

Provided that the Council, in consultation with the Cabinet Secretary, may, by order in the Gazette, alter the practicing year and the order may make such transitional provisions regarding incidental matters as may be expedient.

(6) A practicing license shall expire at the end of the end of the practicing year in which it was issued:

Provided that, where the name of a medical or dental practitioner is removed or struck off the register, the practicing license, if any, shall expire forthwith.

Section 13

Licensing of persons to render medical or dental services

(1) Notwithstanding any of the other provisions of this Act, the Board may, if it is satisfied that it is in the public interest to do so, confer upon any person who is not otherwise eligible to be registered as a medical practitioner or as a dentist under the provisions of this Act, by the issue, under the signature of the Director of Medical Services, of a licence to do so, the right to render medical or dental services.

(2) Every such licence shall be for such period and may contain such conditions as the Director of Medical Services shall, with the consent or on the instruction of the Board, impose.

(3) Any licence issued under this section may be cancelled or revoked and withdrawn at any time by the Director of Medical Services with the consent or on the instructions of the Board.

Delete and substitute therefor the following section -

13. (1) A medical and dental graduate who intends to undertake internship training shall apply to the Council in the prescribed form and upon payment of the prescribed fee for an internship licence.

(2) If the Council is satisfied that the graduate meets the set requirements, it shall issue the graduate an internship licence with or without conditions on the licence.

(3) The Council shall grant temporary licences to eligible foreign medical and dental students to perform specific work or works in specific institutions in Kenya.

(4) An internship licence issued under subsection (2) shall be for a period not exceeding twelve months within a practicing year.

(5) A temporary licence issued under subsection (3) shall be for a period not exceeding twelve months within a practicing year and may be renewed.

The current section 13 of the Act allows the DMŠ to issue licences to persons who are not eligible to be registered under the Act, in public interest.

The amendment now seeks to provide for the issuance of internship and temporary licences to interns and foreign medical and dental students, and both licences shall be issued for a period not exceeding twelve months.

Section 14

Effects of registration and licence under section 13

(1) Registration as a medical practitioner or a dentist under this Act, or the granting of a licence under section 13, shall only entitle the person so registered or so licensed to practise medicine or dentistry or to render medical or dental services, as the case may be, in a salaried post under a Government or local government health scheme or in such salaried posts in such institutions as the Board may from time to time approve.

(2) No medical practitioner or dentist shall act as or engage in private practice as a private practitioner or may be employed by a private practitioner, unless he holds a licence to engage in private practice under the provisions of section 15.

Delete and substitute therefor the following section -

Renewal of practising licences.
14. (1) A medical practitioner or dentist, issued with a practising licence may apply for the renewal of the licence in the prescribed form at least thirty days before the expiry thereof.

(2) A medical practitioner or dentist, who fails to apply for renewal of their practising licence within the period specified under subsection (1), shall, when applying for renewal, be required to pay such late application fee as shall be prescribed by the Council.

(3) The Council may refuse to renew, or suspend, withdraw or cancel any practising licence, if satisfied that the medical practitioner or dentist is guilty of professional misconduct or is in breach of any provisions of this Act or any regulations made thereunder, within a period of twelve months immediately preceding the date of the application for renewal.

(4) A person who is aggrieved by the decision of the Council in the exercise of its powers under subsection (3) may appeal to the High Court.

The current section 14 of the Act is deleted as it provided for the effects of registering of persons who did not qualify as medical or dental practitioners as provided in the deleted section 13.

The new section 14 provides for the conditions for renewal of practicing licenses.

Section 15

Licences for private practice

Delete and substitute therefor the following section -

Registration 15. (1) A person or organization

Council of Governors
Amend to re distribute these roles

Section 15 (1-11) of the proposed Kenya Medical and Dental

<p>(1) The Board may authorize the Registrar to issue to a medical practitioner or a dentist who has applied in the prescribed form and whom the Board considers has had suitable working experience in medicine or in dentistry, as the case may be, a licence to engage in private practice on his own behalf as a private practitioner or to be employed, either whole time or part time, by a private practitioner.</p> <p>(2) The Registrar shall issue, on payment of the prescribed fee, a licence in the prescribed form to persons who are authorized by the Board under subsection (1).</p> <p>(3) Licences shall be granted for a period of one year at a time and shall state whether the person so licensed may practise as a private practitioner on his own behalf or may be employed by a private practitioner.</p> <p>(4) The Board may refuse to issue or to renew a licence to engage in private practice to any person and may withdraw a licence it has</p>	<p>of health institutions.</p> <p>may apply to the Council for the registration of a health institution in the prescribed form which shall be accompanied by the prescribed fee.</p> <p>(2) Where the applicant satisfies the Council that the institution meets the requirements for registration, the Council shall register the facility as an approved health institution.</p> <p>(3) The Council shall issue to every approved health institution registered under this Act, a certificate of registration in the prescribed form.</p> <p>(4) The Council shall issue in accordance with this section, and rules made under this Act, a licence authorizing the use of any premises as a health institution.</p> <p>(5) An application for a licence under subsection (4) shall be made to the Council in the prescribed form and accompanied by the prescribed fees and shall be made on or before the thirtieth of October of each practicing year.</p> <p>(6) A licence issued under this section shall bear the date of day on which it is issued and shall have effect from that date:</p> <p>Provided that a licence issued during</p>	<p>to separate or committees institutions</p>	<p>Council, provides for the Council to define the nature of services to be provided by a health facility, register and license the health facility.</p> <p>These are three distinct roles which when exercised by one body may result in inefficiency in their execution and subject County health facilities to long waits and unrealistic expectations</p> <p>The current section 15 of the Act provides for the issuance of licences for private practice.</p> <p>The amendment provides for the requirements for the registration of a health institution.</p>
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<p>issued.</p> <p>(5) No premises may be habitually used for the purposes of private practice unless they are authorized for such use by the Board.</p> <p>(6) A person aggrieved by a decision of the Board under this section may appeal to the High Court, and in any such appeal the High Court may annul or vary the decision as it thinks fit.</p>	<p>the first month of any practicing year shall have effect for all purposes from the beginning of that month.</p> <p>(7) A licence issued under this section shall be displayed in a conspicuous place at the health institution to which the licence relates.</p> <p>(8) A licence issued under this section shall specify the nature of services that may be provided by the health institution.</p> <p>(9) The Council may decline to renew, cancel, withdraw or revoke any licence issued under this section, if it is satisfied that the health institution is being operated in a manner that contravenes any provisions of the Act or any regulations made under this Act.</p> <p>(10) A health institution registered under this Act shall be inspected by the Council.</p> <p>(11) No premise shall be used by any person as a health institution unless it is registered and licenced for such use by the Council.</p>	
<p><u>New section</u></p>	<p>Insert the following new section immediately after section 15 -</p> <p>Professional indemnity. 15A. Every practitioner shall in each year take a professional indemnity cover</p>	<p><u>Kenya Association of Urological Surgeons</u> Amend to make it the responsibility of the employers of medical</p> <p>This amendment introduces the aspect of professional indemnity to be taken by every medical or dental practitioner. Further, all</p>

	<p>and every health Institution shall in each year insure the health Institution against professional liability of its staff.</p>	<p>officer interns and medical officers to take out professional indemnity cover for them.</p>	<p>health institutions will be required to insure staff against professional liability. This is especially necessary for cases of professional misconduct or negligent on the part of the medical and dental practitioners.</p>
<p>Section 16 Licences to be published in Gazette The issue and the cancellation, revocation or withdrawal of a licence under section 13 or section 15 shall be published in the <i>Gazette</i>.</p>	<p>Delete and substitute therefor the following section -</p> <p>Publishing of licences.</p> <p>16. The issuance and the cancellation, revocation or withdrawal of a license shall be published in such a manner as may be determined by the Council.</p>		<p>The amendment seeks to do away with the requirement to publish in the Gazette, the issue, renewal or revocation of a licence. Instead, the Council shall have the power to determine how such publication shall be done.</p>
<p>Section 19 Penalty for fraudulently procuring registration or licence A person who wilfully procures or attempts to procure himself to be registered or licensed under any of the provisions of this Act by making or producing or causing to be made or produced any false or fraudulent representation or declaration either</p>	<p>Delete.</p>		<p>The amendment removes the penalty for fraudulently procuring registration or licence since this is now comprehensively dealt with in the new section 20.</p>

<p>orally or in writing, and a person aiding or assisting him therein, shall be guilty of an offence and shall be liable to a fine not exceeding three thousand shillings or to imprisonment for a term not exceeding twelve months, or to both; and if a person convicted of an offence under this section is registered or licensed under this Act the Registrar shall forthwith remove his name from the register or cancel his licence, as the case may be.</p>			
<p>Section 20 Disciplinary proceedings (1) If a medical practitioner or dentist registered or a person licensed under this Act is convicted of an offence under this Act or under the Penal Code (Cap. 63), whether the offence was committed before or after the coming into operation of this Act, or is, after inquiry by the Board, found to have been guilty of any infamous or disgraceful conduct in a professional respect, either</p>	<p>Delete and substitute therefor the following section -</p> <p>Disciplinary proceedings</p> <p>20. (1) Any person who, is dissatisfied with any professional service offered, or alleges a breach of standards by a registered or licensed person under this Act, may lodge a complaint in the prescribed manner to the Council.</p> <p>(2) The Council may, or through a committee appointed for that purpose, inquire into any complaint of professional misconduct, malpractice or any breach of standards.</p> <p>(3) Upon an inquiry held by the Council to determine the complaint</p>	<p>Transgender Education and Advocacy</p> <p>20(2)- delete the word "may" and substitute therefor the word "shall"</p> <p>20(9)- delete and substitute with new paragraph: A person or health institution aggrieved by a decision of the Council made under subsection (6) may</p>	<p>The decision to inquire /investigate complaints should not be a discretionary procedure. The Council shall inquire into all complaints without fail.</p> <p>30 days may lock out some aggrieved parties due to financial or other constraints. Also, the aggrieved party may be a person or a health institution.</p>

<p>before or after the coming into operation of this Act, the Board may, subject to subsection (9), remove his name from the register or cancel any licence granted to him.</p> <p>(2) Upon any inquiry held by the Board under subsection (1) the person whose conduct is being inquired into shall be afforded an opportunity of being heard, either in person or by an advocate.</p> <p>(3) For the purpose of proceedings at an inquiry held by the Board, the Board may administer oaths and may, subject to the provisions of rules made under section 23, enforce the attendance of persons as witnesses and the production of books and documents.</p> <p>(4) Subject to the foregoing provisions of this section and to rules as to procedure made under section 23, the Board may regulate its own procedure in disciplinary proceedings.</p> <p>(5) The power to direct the removal of the name of a person from the register or</p>	<p>made under subsection (2), the person whose conduct is being inquired into shall be afforded an opportunity of being heard, either in person or through a representative.</p> <p>(4) For purposes of proceedings at any inquiry held under this section, the Council may administer oaths, enforce the attendance of witnesses and production of books and documents.</p> <p>(5) The Council shall regulate its own procedure in disciplinary proceedings.</p> <p>(6) Where after an inquiry, the Council determines that a person is guilty, the Council may -</p> <p>(a) issue a caution or reprimand in writing;</p> <p>(b) direct a medical practitioner or dentists to undergo remedial training for a period not exceeding twelve months;</p> <p>(c) direct the medical practitioner or dentist be placed on probation for a period not exceeding six months;</p> <p>(d) suspend, withdraw or cancel the practising licence of a medical practitioner or dentist for a period not exceeding twelve months;</p>	<p>within 90 days from the date of decision of the Council, appeal to the High Court.</p> <p>The amendment provides for the disciplinary proceedings that may be instituted against medical and dental practitioners as well as against health institutions. The amendment also provides for the sanctions that may be imposed.</p>
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to cancel the licence of a person shall include a power exercisable in the same manner to direct that during such period as may be specified in the order the registration of a person's name in the register or the licence granted to him shall not have effect.

(6) A person aggrieved by a decision of the Board under the provisions of this section may appeal within thirty days to the High Court and in any such appeal the High Court may annul or vary the decision as it thinks fit.

(7) The provisions of this section, in so far as they relate to the cancellation or suspension of licences, shall be in addition to and not in derogation of the provisions of section 13 or 15.

(8) A person who fails when summoned by the Board to attend as a witness or to produce any books or documents which he is required to produce shall be guilty of an offence and liable to a fine of two thousand shillings or to imprisonment for one

(e) suspend, withdraw or cancel the licence of a health institution or a section of the health institution for a period not exceeding twelve months;

(f) permanently remove the name of a medical practitioner or dentist from the all the registers under section 5(3); or

(g) in addition to the penalties stipulated in paragraphs (a), (b), (c), (d), (e) or (f), impose a fine which the Council deems appropriate in the circumstance.

(7) A person or health institution, whose licence has been withdrawn or cancelled under subsection (6), shall forthwith surrender the license to the Council.

(8) A person or health institution whose name has been removed from the register under subsection (6)(f) shall forthwith surrender the registration certificate to the Council.

(9) A person aggrieved by a decision of the Council made under subsection (6) may, within thirty days from the date of the decision of the Council, appeal to the High Court.

(10) Notwithstanding the provisions of section 3A (5), the Council shall not

<p>month.</p> <p>(9) Notwithstanding the provisions of subsection (8) of section 4, the Board shall not remove the name of a person from the register, or cancel any licence granted to a person, under subsection (1) of this section unless at least ten members of the Board so decide.</p>	<p>remove the name of a person from the register under subsection (6) unless at least seven members of the Council are present in the inquiry.</p>	
<p>Section 22</p> <p>Penalty for unregistered and unlicensed person practising</p> <p>(1) Any person who wilfully and falsely takes or uses any name, title or addition implying a qualification to practise medicine or surgery or dentistry, or who, not being registered or licensed under this Act, practises or professes to practise or publishes his name as practising medicine or surgery or dentistry, or who, not being licensed under section 15, practises as a private practitioner, shall be guilty of an offence and liable to a fine not exceeding ten thousand</p>	<p>Delete and substitute therefor the following section -</p> <p>Penalty for unregistered and unlicensed person practising.</p> <p>22. (1) A person who isn't registered or licensed, including a person aiding or assisting therein, under this Act, and makes or produces or causes to be made or produced any false or fraudulent presentation or declaration either orally or in writing, shall be commits an offence and shall be liable, on conviction, to a fine not exceeding five million shillings or to imprisonment for a term not exceeding five years or to both.</p> <p>(2) Any person who, falsely takes or uses any name, title or addition implying a qualification to practice medicine or dentistry or who not being registered or licensed under this Act, practices or professes to practice or publishes his name as practicing medicine or dentistry commits an offence and shall be liable</p>	<p>Public Health Society of Kenya</p> <p>22(2)- Add: the words "public health speciality" in the given provision.</p> <p>There are many health professionals or otherwise who put MPH or PhD after their name and in their CV's and get assignments in public health specialties. The Council should work with PHSK to uphold a verifiable online database that potential employers or contractors should be required to review before engaging the public health specialist for any assignment.</p> <p>The amendment widens the</p>

shillings, or to imprisonment for a term not exceeding twelve months or to both.

(2) Subject to this Act, no person shall use the title "doctor" unless he is registered or licensed under this Act as a medical or dental practitioner or he has acquired a higher academic doctoral qualification which entitles him to use that title and any person who contravenes the provisions of this subsection shall be guilty of an offence and liable to a fine not exceeding ten thousand shillings or to imprisonment for a term not exceeding two years or to both.

(3) Nothing in subsection (1) shall make it an offence for a person in the service of—

- (a) the medical department of the Government; or
- (b) a hospital, dispensary or similar institution which the Director of Medical Services, by notice in the *Gazette*, declares to be an approved institution for the purposes of this section.

on conviction to a fine not exceeding five million shillings or to imprisonment for a term not exceeding five years or to both.

(3) Any person who uses the title "doctor" unless he is registered or licensed under this Act as a medical practitioner or dentist or has acquired doctoral qualifications or has obtained such qualifications which entitles him to use that title, commits an offence and shall be liable on conviction to a fine not exceeding five million or to imprisonment for a term not exceeding five years or to both.

(4) Any person who, while in charge of a health institution employs or engages the services of another person as a medical practitioner or dentist who is not registered and licenced under this Act, commits an offence and shall be liable on conviction to a fine not exceeding ten million shillings or imprisonment for a term not exceeding five years or to both.

(5) A person who uses premises as a health institution commits an offence and shall be liable on conviction to a fine not exceeding ten million shillings or imprisonment for a term not exceeding five years or to both.

scope of the acts that are deemed to be unregistered or unlicensed practice. The amendment also increases the penalty to be imposed, from ten thousand shillings or two years imprisonment, to five million shillings or five years imprisonment.

<p>to render medical assistance in the course of his duties in such service or for a person to carry out the treatment under the direction, supervision and control of a medical practitioner or a dentist or of a person licensed under section 13.</p>		
<p>Section 23</p> <p>Rules</p> <p>The Minister may, after consultation with the Board, make rules generally for the better carrying out of the provisions of this Act, and any such rules may, without prejudice to the generality of the foregoing power—</p> <p>(a) prescribe anything required by this Act to be prescribed;</p> <p>(b) provide for the procedure to be followed by the Board in an inquiry under section 20;</p> <p>(c) provide for enforcing the attendance of witnesses and the production of books and documents at an inquiry held by the Board;</p> <p>(d) prescribe forms to be</p>	<p>Insert the following subsection immediately after subsection (d) -</p> <p>(e) provide for indemnity for clients against loss or damage arising from claims in respect of any liability incurred by a practitioner or a health institution or the employee of a practitioner or health institution.</p>	<p>The amendment introduces a further aspect in respect of which the Cabinet Secretary may prescribe regulations, and this is in respect of providing indemnity for clients in cases of professional misconduct.</p>

<p>used in connection with this Act or fees to be charged under this Act.</p>			
<p><u>Section 24</u> Attorney-General's consent A prosecution for an offence under this Act shall not be instituted without the written consent of the Attorney-General.</p>	<p>Delete.</p>		<p>This deletion does away with the requirement that the Attorney-General must approve the institution of prosecution of offences under the Act.</p>
<p><u>New section</u></p>	<p>Insert the following new section immediately after section 25 -</p> <p>Savings and transition.</p> <p>26. (1) All property, assets, rights, liabilities, obligations, agreements and other arrangements existing at the commencement of this Act and vested in, acquired, incurred or entered into by or on behalf of the Medical Practitioners and Dentists Board, shall be deemed to have vested in or to have been acquired, incurred or entered into by or on behalf of the Council to the same extent as they were enforceable by or against Kenya Medical and Dental Council.</p> <p>(2) A person, who is an employee of the Medical Practitioners and Dentists Board, shall be deemed to be an employee of the Kenya Medical and Dental Council on the terms and conditions existing, until the expiry of</p>		<p>This amendment provides for the transfer of assets, liabilities as well as the staff from the current Board to the new Council once it is established.</p>

	<p>the contract.</p> <p>(3) Any legal proceedings pending in any court or tribunal by or against the Medical Practitioners and Dentists Board, in respect of any matter shall continue by or against the Council.</p> <p>(4) Members of the Medical Practitioners and Dentists Board, who were appointed, nominated or elected as Board members under section 4, shall continue to hold and act as Council members, until the end of their term.</p>		
<p>THE NURSES ACT (CAP. 257)</p>			
<p>Section 2 Interpretation of terms</p>	<p>Delete the word "Minister" in the definition of the words "approved institution" and substitute therefor the expression "Cabinet Secretary".</p> <p>Delete the word "Minister" wherever it appears in the definition of the words "local supervising authority" and substitute therefor the expression "Cabinet Secretary".</p> <p>Insert the words "or midwifery" in the definition of the word "licence".</p> <p>Insert the following new definitions in proper alphabetical sequence—</p>	<p>Clinical Nursing Society of Kenya Amend: definition of a "Specialist" to read "means a nurse who has master's degree from a recognised university in any of the following disciplines"</p>	<p>"Specialist" means a nursing officer who has undergone a prescribed master's degree in a recognized university and is registered and licensed by the Nursing Council of Kenya to practice as a Nurse or Midwife Specialist.</p>

	<p>"Cabinet Secretary" means the person for the time being responsible for matters relating to health;</p> <p>"enrolled community health nurse" means a person who has undergone training in an approved nursing programme in an approved institution and has been enrolled and licensed by the Council;</p> <p>"member" means a member of the Council;</p> <p>"midwife" means a person who has successfully completed midwifery education programme based on the essential competences for basic midwifery practice according to global standards of midwifery education and is recognized and licensed in the country of origin;</p> <p>"nurse" means a person who is authorized by licensure to practice as an enrolled or registered nurse or midwife;</p> <p>"post basic" means acquiring a second qualification after initial entry into the profession through a basic nursing course;</p> <p>"private practice" means the engagement as a registered or enrolled nurse or midwife in the provision of nursing care in the private sector in an independent capacity;</p> <p>"specialist" means a person registered under this Act as a nurse practitioner, an advanced practice nurse, nurse or registered midwife who has acquired the expert knowledge base, complex decision-making skills and clinical competencies for expanded practice and who has a master's degree or above from a recognized university in any of the following disciplines—</p>	<p>The amendment introduces the term "Cabinet Secretary" so as to conform with the term used in the Constitution.</p> <p>This amendment seeks to ensure that the practice of midwifery is also covered in respect of licences granted to nurses. There is however need to amend the proposed amendment to provide in clear terms where the words should be inserted—</p> <p><i>Insert the words "or midwifery" immediately after the word "nursing" in the definition of the word "licence".</i></p>
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<p>Section 4 Membership of the Council (1) The Council shall consist of— (a) the Director of Medical Services or his representative; (b) the Director of Education or his representative; (c) the Chief Nursing Officer or his representative; (d) the Attorney-General or his representative; (e) the following persons appointed by the Minister— (i) one registered midwife, to be elected by registered</p>	<p>(a) midwifery; (b) medical surgical nursing; (c) paediatrics nursing; (d) oncology and palliative care nursing; (e) forensic nursing; (f) community health nursing; (g) nursing education; (h) nursing management and leadership; (i) mental health nursing; (j) nursing informatics; (k) critical care nursing; (l) gerontology nursing; and (m) such other specialization that the Council may from time to time deem necessary; and "year" means financial year;</p>	<p>Mathari Teaching and Referral Hospital 4(1)(b)- Delete. • National Nurses Association of Kenya • National Nurses Association of Kenya • Progressive Nurses Association of Kenya</p>	<p>The Director of Nursing Services is sufficient to ably represent the Ministry of Health and the government in the Council.</p>
<p>Delete and substitute therefor the following new section— Membership of the Council 4. (1) The Council shall consist of the following persons - (a) a chairperson who shall be appointed by the Cabinet Secretary who shall - (i) be a holder of a Bachelor's degree in nursing from a university recognized in Kenya; and (ii) have at least six years' experience in Leadership and Management; (b) the Director General of</p>	<p>the following new section— 4. (1) The Council shall consist of the following persons - (a) a chairperson who shall be appointed by the Cabinet Secretary who shall - (i) be a holder of a Bachelor's degree in nursing from a university recognized in Kenya; and (ii) have at least six years' experience in Leadership and Management; (b) the Director General of</p>	<p>Mathari Teaching and Referral Hospital 4(1)(b)- Delete. • National Nurses Association of Kenya • National Nurses Association of Kenya • Progressive Nurses Association of Kenya</p>	<p>The Director of Nursing Services is sufficient to ably represent the Ministry of Health and the government in the Council.</p>

<p>midwives;</p> <p>(ii) one registered community health nurse, to be elected by registered community health nurses;</p> <p>(iii) one registered psychiatric health nurse, to be elected by registered psychiatric health nurses;</p> <p>(iv) one registered general nurse, elected by registered general nurses;</p> <p>(v) one nurse nominated by the National Nurses Association of Kenya;</p> <p>(vi) one nurse nominated by the Kenya Progressive Nurses Association;</p> <p>(vii) one registered nurse educator actively involved in the training of nurses nominated by recognized universities in Kenya;</p> <p>(viii) two registered nurses nominated by registered religious organizations providing health services in Kenya;</p> <p>(ix) one person with a professional background in human resource</p>	<p>Health or a representative appointed in writing by the Director General of Health;</p> <p>(c) the Director of Nursing Services or a representative appointed in writing by the Director of Nursing Services;</p> <p>(d) a person nominated by the professional associations of Kenya representing nurses and midwives;</p> <p>(e) one representative of nurses and midwives involved in clinical practice;</p> <p>(f) one representative of accredited mid-level institutions involved in the training of nurses and midwives in Kenya;</p> <p>(g) one representative of accredited universities involved in the training of nurses and midwives in Kenya; and</p> <p>(h) two persons appointed by the Cabinet Secretary to represent the public, either of whom, shall have knowledge and experience on matters relating to finance, law or human resource management.</p> <p>(2) Appointments under subsection (1) shall be in such a manner as shall be notified in the Kenya gazette.</p> <p>(3) A person appointed under</p>	<p>Amend (a): replace "Cabinet Secretary" with "appointed pursuant to section 6 of this Act"</p> <p>Clinical Nursing Society of Kenya</p> <p>Amend (a) by deleting and substituting with, "be a specialist Nurse/Midwife and have at least 10 years' experience in a position of Leadership and Management Or an equivalent in Nursing Education.</p> <p>Amend (b) by deleting and substituting with, "one Midwife, in clinical practice elected by Registered/Enrolled midwives".</p> <p>Amend (d) by deleting and substituting with, "one nurse/midwife, elected by</p>	<p>This will ensure that the chairperson is competently elected and to ensure the independence of the Board as headed by the chairperson.</p> <p>The amendment provides for the new composition of the Council, whose membership reduces from 15 to 9 members.</p> <p>The amendment further provides for the qualifications for appointment of the members of Council.</p>
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<p>management; (f) the chief executive officer of the Kenya Medical Training College or his representative. (2) All nominations and elections under this section shall be in such manner as may be prescribed and all appointments shall be notified in the <i>Gazette</i>. (3) The members of the Council appointed under paragraph (e) of subsection (1) shall hold office for a term of three years and shall be eligible for reappointment in accordance with the procedure set out in that paragraph for one further term.</p>	<p>subsection (1) (b) or (c) shall be <i>ex officio</i> members of the Council.</p> <p>(4) A member of the Council shall be a Kenya citizen of good professional standing and meet the requirements of Chapter Six of the Constitution.</p> <p>(5) A member of the Council, except the <i>ex officio</i> members, shall hold office for a term of three years and may be eligible for reappointment for a single further term.</p>	<p>Registered/Enrolled Nurses/Midwives to represent each Professional Association. Amend (e) by deleting and substituting with, "one registered Nurse in clinical practice, to be elected by Registered Nurses". Amend (f) by deleting and substituting with, "one Advanced Nurse Practitioner actively involved in the training of nurses nominated by accredited mid-level institutions involved in the training of nurses and midwives in Kenya". Amend (g) by deleting and substituting with, "one Nurse Specialist actively involved in the training of nurses nominated by recognized universities in</p>	
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	<p>Kenya” .</p> <p>Council of Governors</p> <p>Replace the section with the following</p> <p>(1) The Council shall consist of the following appointed by the cabinet secretary —</p> <p>(a) a Chairperson as per section 6 of this act who shall be</p> <p>i) Bachelor’s degree holder in Nursing and Midwifery from a recognized university,</p> <p>ii) Have at least 10 years’ experience in leadership and management.</p> <p>ii) Elected from board members.</p> <p>(b) the Director of Nursing or representative appointed in writing;</p> <p>(c) One person nominated by National Nurses Association of Kenya</p>	<p>This is to ensure that the chairperson competitively elected and prevent hand picking.</p> <p>The other members must have a formula for getting them to the board and the current globally agreed formula is election</p>
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	<p>(d) One person nominated by Kenya Progressive Nurses Association.</p> <p>(e) One Nurse representative from midlevel training colleges approved by Nursing council of Kenya to train Nurses and midwives selected through a transparent electoral process.</p> <p>(f) One Nurse representative from universities approved by Nursing council of Kenya to train Nurses and midwives selected through a transparent electoral process.</p> <p>(g) One persons nominated by cabinet secretary to represent the public either of whom shall have academic background in law, human resource and finance.</p> <p>(h) one Nurse from clinical practice</p>
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selected through a transparent electoral process.

(j) one Nurse from administration

selected through a transparent electoral process.

(k) one Nurse specialist selected through a transparent electoral process.

(2) Appointments under subsection (1) shall be in such a manner as may be prescribed and notified in Kenya Gazette.

(3) Members appointed under paragraph (b) shall be ex-officio members of the Council.

(4) A member of the council including the chairperson shall be Kenyan citizens with good professional standing and meet the requirements of chapter six of the constitution.

		<p>(5) A member of the council except ex officio members shall hold the office for a term of three years and may be eligible for reappointment for a single further term.</p> <p>(6) The Registrar appointed under section 11(1) of this act shall be the Chief Executive of the Council and a board member with no voting rights. The Registrar shall be appointed by the board through a competitive process and shall report Director of Nursing services.</p>	
<p><u>New section</u></p>	<p>Insert the following section immediately after section 4 - Corporation Secretary.</p> <p>4A. There shall be a Corporation Secretary to the Board who shall be appointed by the Board, on such terms and conditions of service as the Board may determine and shall be the</p>	<p><u>Council</u> _____ of <u>Governors</u></p> <p>Insert the following section immediately after section 4- Corporation</p>	<p>The corporation secretary shall handle all the legal matters.</p>

	Secretary to the Board.	<p>4A. There shall be a Corporation Secretary. Secretary to the Board who shall be appointed by the Board, on such terms and conditions of service as the may determine and shall be the Secretary to the Board.</p>	<p>This amendment provides for the appointment of a Corporation Secretary to the Board.</p>
<p>Section 5(1) Disqualification from office and filling of vacancies (1) No person shall be qualified for appointment or election as a member of Council if— (a) he is an undischarged bankrupt; or (b) his name has been and remains removed from the appropriate register or his registration, enrolment or licence has been suspended under section 25(1).</p>	<p>Delete the expression "section 25(1)" in paragraph (b) and substitute therefor with the expression "section 18B".</p> <p>Insert the following new paragraph immediately after paragraph (b) - (c) he has contravened the provisions of the Constitution or convicted of a criminal offence punishable by a fine or imprisonment for more than six months.</p>	<p>The amendment seeks to provide for correct referencing since the old section 25 of the Act was deleted, and the provisions dealing with suspensions and de-registration of licences are contained in section 18B.</p> <p>This amendment introduces additional criteria for the disqualification of persons as members of the Council.</p>	<p>The amendment introduces the term "Cabinet Secretary" so as to conform with the term used in</p>
<p>Section 5(3) (3) Every vacancy caused by the death of a member or by vacation of office under</p>	<p>Delete the word "Minister" wherever it appears in and substitute therefor the expression "Cabinet Secretary".</p>		<p>The amendment introduces the term "Cabinet Secretary" so as to conform with the term used in</p>

<p>subsection (2) shall, in the case of a member appointed by the Minister, be filled by a person appointed by the Minister, and in every other case, unless the Council otherwise decides, shall be filled by a person appointed by the Council and every person so appointed shall hold office for the residue of the term for which his predecessor was appointed or elected.</p>		<p>the Constitution.</p>
<p>Delete.</p>	<p><u>Section 6</u> Appointment of chairman of Council (1) The Council shall once in each year elect from among its members a chairman and a vice-chairman who shall hold office in that year. (2) The vice-chairman shall act as chairman whenever the chairman is unable to act and when so acting shall have the powers and discharge the duties of the chairman. (3) If the chairman and the vice-chairman are both absent from any meeting of the Council, the members</p>	<p><u>Council</u> _____ of <u>Governors</u> Delete section 6 and substitute with the following— (1) The Council shall elect from among its elected members a chairman and a vice-chairperson who shall hold office for two years maximum two terms. (2) The vice-chairperson shall act as chairperson whenever the chairperson is unable to act and when so</p>
		<p>This to ensure that the chairperson is competitively elected and prevent hand picking.</p>

present shall elect one of their number present to preside at the meeting and the person so elected shall, during the absence from that meeting of the chairman and vice-chairman, have all the powers and discharge all the duties of the chairman.

(4) If the chairman or vice-chairman vacates his office before the period of his appointment expires, a new chairman or vice-chairman, as the case may be, shall be elected at the meeting of the Council next following the vacation of office for the unexpired portion of the period for which the chairman or vice-chairman whose seat has become vacant was elected.

acting shall have the powers and discharge the duties of the chairperson.

(3) If the chairperson and the vice-chairperson are both absent from any meeting of the Council, the members present shall elect one of their number present to preside at the meeting and the person so elected shall, during the absence from that meeting of the chairperson and vice-chairman, have all the powers and discharge all the duties of the chairperson.

(4) If the chairperson or vice-chairperson vacates his office before the period of his appointment expires, a new chairperson or vice-chairperson, as the case may be, shall be elected at the

The amendment deletes the provisions dealing with the appointment of the chairperson of the Council since this has now been provided for in the new section 4 of the Act which provides for the composition of the Council.

		<p>meeting of the Council next following the vacation of office for the unexpired portion of the period for which the chairperson or vice-chairperson whose seat has become vacant was elected</p>	
<p><u>Section 7(1)</u> Meetings of Council (1) The Council shall be convened by the chairman at least four times in each year.</p>	<p>Delete the word "chairman" and substitute therefor the word "chairperson".</p>	<p>The amendment is for purposes of providing for gender-neutral drafting.</p>	
<p><u>Section 7(2)</u> (2) The chairman may at any time convene a special meeting of the Council and shall do so within fifteen days of a written requisition for the meeting signed by at least four members.</p>	<p>Delete the word "chairman" and substitute therefor the word "chairperson".</p>	<p><u>Council of Governors</u> (2) The chairperson may at any time convene a special meeting of the Council and shall do so within fifteen days of a written requisition for the meeting signed by at least five members.</p>	<p>Five members out of 9 forms a quorum</p> <p>The amendment is for purposes of providing for gender-neutral drafting.</p>
<p><u>New subsection</u></p>	<p>Insert the following new subsection immediately after subsection (2) -</p>		<p>The amendment seeks to provide that the Council meetings shall be presided over by the</p>

	<p>(3) Council meetings shall be presided over by the chairperson or in the chairperson's absence any other member elected by the Council at the meeting for that purpose.</p>	<p>Chairperson of the Council.</p>
<p>Section 8(1) Quorum (1) The quorum of the Council shall be seven, at least four of whom shall be members appointed under section 4(1)(e); but no meeting shall be held or continued, notwithstanding that there is a quorum, unless the Registrar or a person deputed by him is present.</p>	<p>Delete and substitute therefor the following new subsection</p> <p>(1) The quorum of the Council meetings shall be five members, but no meeting shall be held or continued, notwithstanding that there is quorum, unless the Registrar or a person deputizing the Registrar is present.</p>	<ul style="list-style-type: none"> • National Nurses Association of Kenya • Kenya Progressive Nurses Association • Kenya Union of Nurses <p>Amend: by replacing "5" members with "7".</p> <p><u>Council</u> <u>Governors</u> of</p> <p>(1) The quorum of the Council shall be seven, but no meeting shall be held or continued, notwithstanding that there is a quorum, unless the Registrar or the deputy is present</p>
	<p>Seven members out of nine is adequate representation since it is a preplanned meeting, the attendance should actually be 100%.</p> <p>Seven members out 9 is representative and since this is a preplanned meeting the attendance should be 100% i.e 9 out of 9</p> <p>The amendment seeks to change the quorum of Council meetings from seven to five members.</p>	

<p>Section 8(2)</p> <p>(2) The decision of the majority of the members present and voting at any meeting shall constitute the decision of the Council and in the event of an equality of votes the chairman of the meeting shall have a casting in addition to a deliberative vote.</p>	<p>Delete the word "chairman" in subsection (2) and substitute therefor the word "chairperson".</p>	<p>The amendment is for purposes of providing for gender-neutral drafting.</p>
<p>Section 9(1)</p> <p>Functions of Council and annual report</p> <p>(1) The functions of the Council shall be—</p> <p>(a) to establish and improve standards of all branches of the nursing profession in all their aspects and to safeguard the interests of all nurses;</p> <p>(b) to establish and improve the standards of professional nursing and of health care within the community;</p> <p>(c) with the approval of the Minister, to make provision for the training</p>	<p>Delete the word "Minister" wherever it appears and substitute therefor the expression "Cabinet Secretary".</p> <p>Delete the words "nursing commodities" in paragraph (i).</p> <p>Delete paragraph (k) and substitute therefor the following new paragraph –</p> <p>(k) to advise the Cabinet Secretary on any matter falling within the scope of this Act.</p>	<p>The amendment introduces the term "Cabinet Secretary" so as to conform with the term used in the Constitution.</p> <p>The amendment deletes the term "nursing commodities" as it is unclear what this term means.</p> <p>The amendment introduces the term Cabinet Secretary to bring it into conformity with the Constitution, and also limits the functions of the Council to the scope of the Act.</p>

and instruction for persons seeking registration or enrolment under this Act;

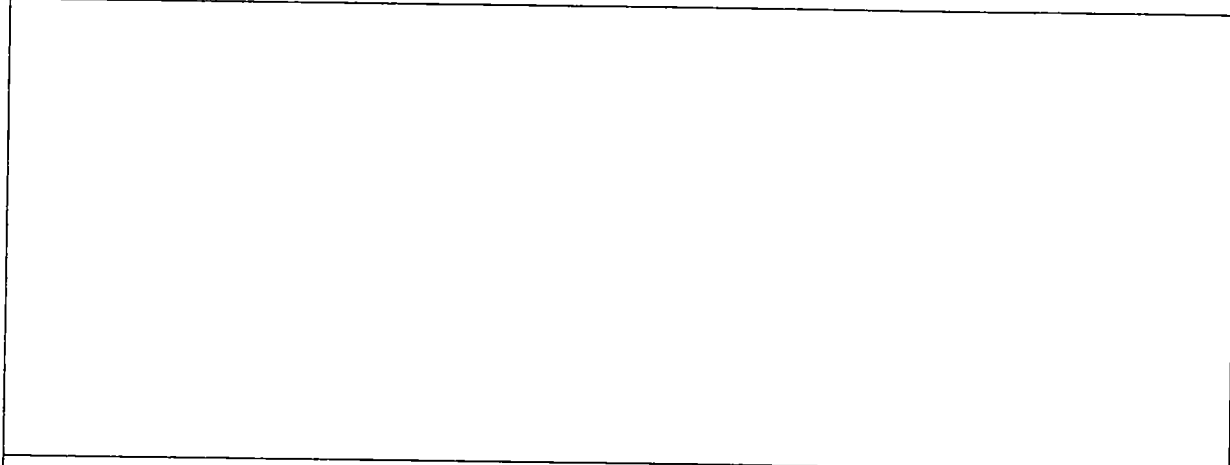
(d) with the approval of the Minister, to prescribe and regulate syllabuses of instruction and courses of training for persons seeking registration or enrolment under this Act;

(e) to recommend to the Minister institutions to be approved institutions for training of persons seeking registration or enrolment under this Act;

(f) with the approval of the Minister, to prescribe and conduct examinations for persons seeking registration or enrolment under this Act;

(g) to prescribe badges, insignia or uniforms to be worn by persons registered, enrolled or licensed under this Act;

(h) to have regard to the conduct of persons registered, enrolled or licensed under this Act, and to take such disciplinary measures as may be necessary to maintain a proper standard of conduct among such persons;



<p>(i) to have regard to the standards of nursing care, qualified staff, nursing commodities, facilities, conditions and environment of health institutions, and to take such disciplinary or appropriate measures as may be necessary to maintain a proper standard of nursing care in health institutions;</p> <p>(j) to direct and supervise the compilation and maintenance of registers, rolls and records required to be kept under sections 12, 14 and 16;</p> <p>(k) to advise the Minister on all matters concerning all aspects of nursing.</p>			
<p>Section 10(1)</p> <p>(1) The Council shall appoint committees in the following areas—</p> <p>(a) human resources and finance;</p> <p>(b) registration and licensing;</p> <p>(c) education, research and examination;</p> <p>(d) discipline, standards and ethics.</p>	<p>Delete subsection (1) and substitute therefor the following subsection -</p> <p>(1) The Council may, for the effective discharge of its functions under this Act, establish the following committees -</p> <p>(a) registration, education and examination;</p> <p>(b) discipline, standards and ethics;</p> <p>(c) finance, strategy and development; and</p> <p>(d) risk and audit.</p>	<p>Mathari National Teaching and Referral Hospital</p> <p>Merge finance and audit committees, and registration and licensure a stand-alone committee.</p> <ul style="list-style-type: none"> • National Nurses Association of Kenya • Kenya 	<p>Finance and audit are related supportive functions and can be handled in one committee.</p> <p>Registration, licensure, education, examination and standards are the core functions of the Council hence they deserve more weight as pertains the composition of committees.</p>

		<p>Progressive Nurses Association</p> <ul style="list-style-type: none"> • Kenya Union of Nurses <p>Amend: by adding the following paragraph after (d), (e) "Nursing commodities committee".</p>	<p>Since Nursing Commodities has very many activities it requires an independent committee. Further for the proper handling of the various nursing commodities in line with spirit of the Act which effective management of health facilities.</p>
<p>Section 10(2)</p> <p>(2) The Council may from time to time appoint such other committees as it may deem necessary for the more effective carrying out of its functions under this Act.</p>	<p>Delete subsection (2) and substitute therefor the following subsection-</p> <p>(2) The Council may from time to time appoint such other ad hoc committees for specific tasks as it may deem necessary for the more effective carrying out of its functions under this Act.</p>		<p>The amendment removes the mandatory obligation on the Council to establish committees, and also removes human resource and licensing from among the matters in respect of which such committees may be established.</p>
<p>Section 10(6)</p> <p>(6) A committee appointed</p>	<p>Delete the word "chairman" wherever it appears and substitute therefor the word "chairperson".</p>		<p>This amendment serves to provide that the Council may establish temporary committees when the need for such arises.</p> <p>This amendment is for purposes of gender-neutral drafting.</p>

<p>under this section shall elect its own chairman and may also elect a vice-chairman.</p> <p><u>Section 10(7)</u></p> <p>(7) The Registrar or his deputy shall be the secretary of all committees appointed under this Act.</p>	<p>Delete.</p>	<p>The new section 4A provides for the appointment of a corporation secretary who shall be the secretary to the Council. The new section 11(1) further provides that the Registrar shall be an ex officio member of the Council.</p>
<p><u>Section 11(1)</u></p> <p>Appointment of Registrar and other officers</p> <p>(1) The Council shall, with the approval of the Minister, appoint a Registrar who shall be a registered nurse and who shall perform such duties as may be prescribed by this Act or directed by the Council.</p>	<p>Delete subsection (1) and substitute therefor the following subsection -</p> <p>(1) The Council shall, with the approval of the Cabinet Secretary, competitively appoint a Registrar who shall -</p> <p>(a) be a registered nurse;</p> <p>(b) be the Chief Executive Officer to the Council;</p> <p>(c) perform such duties as may be prescribed by this Act or directed by the Council; and</p> <p>(d) be an <i>ex officio</i> member of the Council.</p>	<p>To streamline the chain of command in the nursing profession and avoid conflicts between the Registrar and the Director Nursing Services.</p> <p>Broad experiences and higher qualifications are key to effective leadership and governance of an organization.</p> <p>The amendment provides the specific functions to be performed by the Registrar who shall now be an ex officio member of the Council.</p>
	<p><u>Mathari National Teaching and Referral Hospital</u></p> <p>Insert new provision- the Council shall nominate 3 nurses to the position of Registrar and present the names to the Director of Nursing Services for appointment of one as Registrar.</p> <p>Insert new subsection for qualifications of Registrar- at least a basic degree in nursing/midwifery and a minimum of 10 years experience.</p>	

<p>Section 11(2)</p> <p>(2) The Council may, with the approval of the Minister, appoint such other officers as the work of the Council may require, and those officers shall perform such duties as the Council may direct.</p>	<p>Delete subsection (2) and substitute therefor the following subsection-</p> <p>(2) The Council may appoint such other officers as the work of the Council may require, and those officers shall perform such duties as the Council may direct.</p>	<p>three of which shall be practice in a clinical area or nursing education at senior level.</p>	<p>This amendment eliminates the requirement of the Cabinet Secretary playing a role in the appointment of officers to the Council.</p>
<p>Section 11(4)</p> <p>(4) A fee, to be known as a retention fee, may be prescribed for payment annually, or at such longer intervals as the Council may deem appropriate, by any person whose name appears on a register or roll as a condition of maintaining his name thereon.</p>	<p>Delete subsection (4) and substitute therefor the following new subsection -</p> <p>(4) A fee, to be known as a retention fee, shall be prescribed for payment annually by the Council as the Council may deem appropriate.</p>	<p>Kendi Ikiara Delete the word "annually" and substitute therefor the words "every two years"</p>	<p>The amendment makes the retention fee a mandatory annual requirement. In terms of the existing subsection (4), the Council has powers to direct that the retention fee be paid for intervals longer than a year.</p>
<p>Section 11(5)</p> <p>(5) The Registrar and other officers appointed under this section shall be paid such remuneration and</p>	<p>Delete and substitute therefor the following subsection -</p> <p>(5) The appointment of the Registrar under subsection (1) may be renewed subject to satisfactory performance.</p>		<p>This amendment serves to provide for the renewal of the term of the Registrar.</p> <p>The effect of the amendment however eliminates the provision</p>

<p>allowances as the Council, with the approval of the Minister, may from time to time determine.</p>			<p>for the payment of salaries to the Registrar and other officers of the Council.</p>
<p>Section 12 Registers to be kept (1) The Registrar shall, under the direction of the Council, compile and keep in his office the following registers— (a) a register of nurses; (b) a register of midwives; (c) a register of community health nurses; (d) a register of psychiatric nurses; (e) a register of sick children's nurses, and such other registers as may from time to time be required by the Council with the approval of the Minister. (2) Subject to the payment of a retention fee, there shall be entered and maintained in the appropriate register the name and address of every person entitled to be registered under this Act together with his professional qualifications and such other particulars as</p>	<p>Delete and substitute therefor the following new section- Registers to be kept. 12. (1) The Registrar shall compile and keep a register of nurses and midwives in the prescribed form. (2) Every person eligible to be registered as a nurse or midwife may apply in the prescribed form to the Registrar for registration and every such application shall be accompanied by the prescribed fee. (3) Every person registered under this Act who has obtained a higher degree or qualification other than the qualification in respect of which he has been registered, shall be entitled to have that higher degree or additional qualification inserted in the register in substitution for or in addition to the qualification previously registered, upon paying the prescribed fee.</p>	<p>Clinical Nursing Society of Kenya 12(1)- Amend: deleting and substituting with, "The Registrar shall compile and keep a register of ; (a) Nurse Specialist (b) Midwife Specialist (c) Advanced Nurse Practitioners (d) Nursing Officer (e) Registered Nurses (f) Enrolled Nurses (g) Nursing Services (h) Nursing Institutions (i) Nursing Commodities</p>	<p>The amendment serves to eliminate the repetition in the existing subsection which specifies the various categories of nurses. The amendment also provides for the insertion of additional qualifications of nurses and midwives in the register.</p>

<p>may be prescribed by the Council.</p>			
<p>Section 14(1) Rolls to be kept (1) The Registrar shall, under the direction of the Council, compile and keep in his office the following rolls— (a) a roll of nurses; (b) a roll of midwives; (c) a roll of community health nurses; (d) a roll of psychiatric nurses, and such other rolls as may from time to time be required by the Council with the approval of the Minister.</p>	<p>Delete the word "Minister" and substitute therefor the expression "Cabinet Secretary".</p>		<p>The amendment serves to bring the Act into conformity with the term used in the Constitution.</p>
<p>Section 16(1) Records of licences to be kept (1) The Registrar shall, under the direction of the Council, compile and keep in his office the following separate records of licences to practise nursing in Kenya— (a) a record of nurses licensed to practise general</p>	<p>Delete the word "Minister" wherever it appears and substitute therefor the expression "Cabinet Secretary".</p>		<p>The amendment serves to bring the Act into conformity with the term used in the Constitution.</p>

<p>nursing;</p> <p>(b) a record of nurses licensed to practise midwifery;</p> <p>(c) a record of nurses licensed to practise community health nursing;</p> <p>(d) a record of nurses licensed to practise psychiatric nursing;</p> <p>(e) a record of nurses licensed to practise sick children's nursing, and all such other records as may from time to time be required by the Council with the approval of the Minister.</p>			
<p>Section 17</p> <p>Private practice</p> <p>(1) No person shall engage in private practice as a nurse unless such person—</p> <p>(a) is a citizen of Kenya;</p> <p>(b) is registered, enrolled or licensed as a nurse under this Act;</p> <p>(c) has served as a nurse for a period of not less than three years under supervision of a senior nurse of not less than seven years standing;</p> <p>(d) is a holder of an annual licence known as a practising</p>	<p>Delete and substitute therefor the following new section -</p> <p>Private practice.</p> <p>17. (1) A person may engage in private practice as a nurse or a midwife if that person shall be -</p> <p>(a) either a citizen of Kenya or a foreign country;</p> <p>(b) registered and licensed to practice in Kenya;</p> <p>(c) holder of a valid practicing license issued under this Act;</p> <p>(d) of professional good standing, as may be prescribed by the Council;</p> <p>(e) has paid the fee as prescribed by the Council;</p>	<p>Kendi Ikiara</p> <p>17(1)(a)- delete the words "or a foreign country"</p>	<p>Only Kenya citizens should practice nursing in the country.</p> <p>The amendment provides the conditions under which a nurse may engage in private practice. In terms of the amendment, the requirements for a Kenyan citizen and foreign nationals are the same. Further, the validity period of the practicing certificate shall be as determined by the Council, while previously under the Act the validity was until 31st December on the year</p>

<p>certificate for that year;</p> <p>(e) is a holder of such other qualification as may be prescribed.</p> <p>(2) Notwithstanding the provisions of subsection (1), a person who is not a citizen of Kenya may be licensed to practise as a nurse if he satisfies the Council that—</p> <p>(a) he is of good character;</p> <p>(b) he has paid the prescribed fees;</p> <p>(c) he has undergone a course of training and passed an examination, elsewhere than in Kenya, which would not qualify him to be registered or enrolled under this Act but which the Council recognizes as sufficient to enable him to practise nursing in Kenya.</p> <p>(3) A licence issued under subsection (2)—</p> <p>(a) shall be for such period and for such purpose as the Council may prescribe;</p> <p>(b) may, on its expiry, be renewed for such period, not exceeding one year, as the Council may prescribe.</p> <p>(4) Where a licence issued under subsection (2) is renewed, details of the</p>	<p>(f) meets such other requirements as may be prescribed by the Council; and</p> <p>(g) a holder of such other nurse or midwifery qualification as may be prescribed.</p> <p>(2) A person is not qualified to operate a clinic in community nursing or midwifery services as a private practitioner unless such person has at least 3 years post qualification experience in community nursing or midwifery and is in active practice in Kenya.</p> <p>(3) Despite the provisions of subsections (1) and (2), a person is not qualified to operate a nursing home, maternity home or a nursing and maternity home as a private practitioner unless such person has been in active practice for at least 5 years in Kenya.</p> <p>(4) A licence to engage in private practice -</p> <p>(a) may be for such period and for such purpose as the Council may determine; and</p> <p>(b) is renewable for such period, not exceeding one year, as the Council may from time to time, determine.</p>	<p>in which it is issued.</p> <p>However the new subsection (4) is in conflict with subsection (9) which provides that a license shall be valid for 12 months from the date of issue.</p>
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renewal shall be entered in the appropriate record.

(5) Where a licence issued under subsection (2) expires and is not renewed within thirty days of expiry, the name of the holder of the licence shall be removed from the appropriate record and the Council may decline further requests for renewal of such a licence or impose a levy on such further requests.

(6) For the purposes of this Act—

(a) a person shall be deemed to engage in private practice as a nurse if such person—

(i) practises on his own account and is entitled to receive, for his own financial benefit, the entire amount of all fees and charges;

(ii) practises in partnership with others and is entitled to receive, for his own financial benefit, a share of the fees and charges;

(b) a person shall not be deemed to engage in private practice as a nurse if such person is employed by—

(i) the Government or any other public body;

(ii) any person or employer

(5) Details of a renewal license issued under paragraph (4) (a) may be entered in the appropriate register.

(6) If a license is due for renewal and is not renewed within thirty days from the date of expiry, the licensee shall not engage in private practice until a renewal license is issued.

(7) An application to engage in private practice or renewal shall be made to the Council in the prescribed form, accompanied with such fee as the Council may from time to time, determine.

(8) A person who has made an application to engage in private practice shall be issued with such license by the Council upon satisfying such requirements for issuance with a licence under this Act.

(9) A license to engage in private practice is valid for a period of twelve months from the date of issue.

(10) A person who contravenes the provision of this section commits an offence and is liable upon conviction, to a fine not exceeding five hundred thousand shillings or to imprisonment for a term not exceeding one year, or

where all fees and charges accrue to the person or employer despite the fact of him being employed in his professional capacity as a nurse.

(7) An application for a practising certificate or its renewal shall be made to the Council in the prescribed form and shall be accompanied by such fee as the Council may from time to time determine.

(8) Where an application is made by a person in accordance with subsection (7), the Council shall issue to such person a practising certificate for that year if it is satisfied that the person fulfils the requirements set out in subsection (1) and has paid the fee referred to in subsection (7) of this section.

(9) A practising certificate shall be valid from the date on which it is issued and shall expire on the thirtieth day of December of every year unless its holder ceases to be a registered person under this Act.

(10) Where a practising certificate ceases to be in

both.

<p>force in accordance with subsection (7), the person to whom the certificate was issued shall deliver it to the Council within thirty days from the date on which he ceases to be registered.</p> <p>(11) Any person who contravenes—</p> <p>(a) subsection (1) or (2), in addition to being culpable of professional misconduct, commits an offence and is liable to a fine not exceeding five hundred thousand shillings or to imprisonment for a term not exceeding one year, or to both;</p> <p>(b) subsection (7) commits an offence and is liable on conviction to a fine not exceeding fifty thousand shillings.</p>			
<p>Section 19(2)</p> <p>(2) Any person who, not being eligible to be registered, enrolled or licensed under this Act, practises for gain as a nurse, except in an area which the Minister has, by notice in the <i>Gazette</i>, determined to be suitable for</p>	<p>Delete the word “Minister” and substitute therefor the expression “Cabinet Secretary”.</p>		<p>The amendment serves to conform to the term used in the Constitution.</p>

<p>such practice by persons who are not so registered, enrolled or licensed, or, except in such circumstances as may be specifically laid down in regulations made under this Act, shall be guilty of an offence and shall be liable to a fine not exceeding five hundred thousand shillings or imprisonment for a term not exceeding two years or to both:</p> <p>Provided that nothing in this section shall prohibit persons employed in the service of the Government or by an approved institution from performing their duties under the supervision of a medical practitioner or of a person registered, enrolled or licensed under this Act.</p>			
<p>Section 26</p> <p>Regulations</p> <p>The Council may, with the approval of the Minister, make regulations generally for better carrying out of the provisions of this Act and, without prejudice to the foregoing generality, may make regulations to provide</p>	<p>Delete the word "Minister" and substitute therefor the expression "Cabinet Secretary".</p>		<p>The amendment serves to conform to the term used in the Constitution.</p>

<p>for—</p> <p>(a) the form and the method of keeping the registers, rolls and records under this Act;</p> <p>(b) the conditions of admission to the registers and rolls and of the issue of licences;</p> <p>(c) the manner in which the various categories of persons for whom provision is made in this Act for registration or enrolment may be established and their training regulated;</p> <p>(d) the conditions under which training schools for persons desirous of obtaining registration or enrolment under this Act may be approved and the courses of training and instruction to be undergone by persons seeking such registration or enrolment;</p> <p>(e) the subject matter of training courses and examinations to be conducted by the Council;</p> <p>(f) the conditions of admission for entry to training courses and examinations to be conducted by the Council;</p> <p>(g) the uniforms, badges and</p>			
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other distinguishing devices which may be worn by persons registered, enrolled and licensed under this Act;

(h) the standards and conditions of professional practice of persons registered, enrolled or licensed under this Act;

(i) the fees payable in respect of examinations, registration, enrolment, issue of licences, issue of certificates and badges and in respect of any other matters under this Act;

(j) the procedure for election of those members of the Council who are required to be elected;

(k) the summoning of meetings of and the direction of the proceedings of the Council;

(l) the powers and duties of local supervising authorities, different powers and duties for which may be prescribed for different local supervising authorities;

(m) the disposal of fees collected, the authorization of such disbursements as may be necessary and the management of any funds within the control of the

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<p>Council; (n) the keeping and opening of new registers, rolls and records and the closing of existing registers, rolls and records or parts thereof.</p>			
<p>Section 27 Finance The Minister may, with the consent of the Treasury, out of moneys provided by Parliament— (a) make to the Council such grants as may be necessary to enable it to discharge its functions under this Act; (b) make such other payments as may be necessary to give effect to the provisions of this Act; (c) pay remuneration, travelling and any other allowances to members of the Board (other than members who are public officers in receipt of a salary).</p>	<p>Delete the word “Minister” and substitute therefor the expression “Cabinet Secretary”.</p>		<p>The amendment serves to conform to the term used in the Constitution.</p>

New section

Insert the following new sections immediately after section 27 -

Financial year.

27A. The financial year of the Council shall be the period of twelve months commencing on the first of July and ending on the thirtieth of June of the subsequent year.

Accounts and Audit.

27B. (1) The Council shall keep proper books and records of account of income, expenditure, assets and liabilities of the Council.

(2) Within a period of three months after the end of each financial year, the Council shall submit to the Auditor-General accounts of the Council in respect of that year together with a -

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

(b) statement of the assets and liabilities of the Council on the last day of that financial year.

(3) The annual accounts of the Council shall be prepared, audited and reported upon, in accordance with the provisions of Articles 226 and 229 of the Constitution and the law relating to public audit.

The amendments introduce the financial year as well as the requirement of the Council to keep books of accounts and submit audited reports.

<p><u>Schedule-Paragraph 2(2)</u></p> <p>Notice of meeting</p> <p>(1) The Registrar shall give notice of the first date, time and place fixed for the inquiry to the person whose conduct is the subject of investigation.</p> <p>(2) Every such notice shall, at least fourteen days, before the first date fixed for the inquiry, be delivered to the person whose conduct is the subject of investigation by hand or be sent to him through the post by registered letter addressed to his address last known to the Council.</p>	<p>Delete the word "fourteen" and substitute therefor with the word "seven".</p>	<p>The amendment reduces the notice period for the person whose conduct is being investigated, from 14 days to 7 days.</p>
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THE KENYA MEDICAL TRAINING COLLEGE ACT (CAP. 261)

<p><u>Section 2</u></p>	<p>Delete the expression "Board of management" appearing in the definition of the word "statutes" and substitute therefor the expression "Board of Directors".</p> <p>Delete the definitions of "Academic Board", "Board of Management", "Principal" and "Deputy Principal".</p> <p>Insert the following new definitions in proper alphabetical sequence -</p>	<p>The amendment gives the interpretation of various terms as used in the Act.</p>
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<p>Section 3(1)(b) Establishment and incorporation of the College (1) There shall be established a College which shall be the successor to the Government in respect of the institution hitherto known as the College of Health Professions, Nairobi, and which shall include— (a) the medical training centres specified in the Schedule; and (b) such other institutions as the Minister may, from time to time in consultation with the Board of management, by notice in the <i>Gazette</i>,</p>	<p>“Academic council” means the Academic Council of the college established under section 11; “Board of Directors” means the Board of Directors of the College established under section 9; “Cabinet Secretary” means the Cabinet Secretary for the time being in charge of matters related to health; “Chief Executive Officer” means the Chief Executive Officer appointed under section 8; and “Deputy Director” means a Deputy Director of the College appointed under section 8.</p>	
	<p>Delete and substitute therefor the following paragraph - (b) such other institutions as the Cabinet Secretary may, from time to time in consultation with the Board of Directors, by notice in the <i>Gazette</i>, declare to be a campus of the College.</p>	<p>The amendment redefines the College to constitute campuses as may be determined by Cabinet Secretary in consultation with the Board of Directors.</p>

<p>declare to be constituent training centres of the College.</p>			
<p>Section 4(1) Common seal and signification of documents (1) The Common seal of the College shall be kept in such custody as the Board of management directs and shall not be used except by the order of the Board of management.</p>	<p>Delete and substitute therefor the following new subsection- (1) The Common seal of the College shall be kept in the custody of the Corporation Secretary and shall not be used except by the order of the Board of Directors.</p>		<p>The amendment serves to give the corporation secretary the duty of being the custodian of the common seal, which under the current Act is to be kept as directed by the Board.</p>
<p>Section 4(2) (2) The common seal of the College shall be authenticated by the signature of the Principal, or of any other member of the Board of management duly authorized by the Board of management in that behalf.</p>	<p>Delete the expression "Board of Management" and substitute therefor the expression "Board of Directors" wherever it appears. Delete the expression "Principal" and substitute therefor the expression "Chief Executive Officer".</p>		<p>The amendment removes the duty of authentication of the common seal from the Principal to the CEO. The amendment also replaces the name of the membership of the Board from the Board of management to the Board of Directors.</p>
<p>Section 4(3) (3) The common seal of the College when affixed to any document and authenticated under this section shall be judicially and officially noticed, and unless the contrary is proved, any necessary order or</p>	<p>Delete the expression "Board of Management" and substitute therefor the expression "Board of Directors".</p>		<p>The amendment replaces the name of the membership of the Board from the Board of management to the Board of Directors.</p>

<p>authorization of the Board of management shall be presumed to have been duly given.</p>			
<p>Section 5(1) Functions of the College (1) The objects and functions of the College shall be— (a) to provide facilities for college education for national health manpower requirements, in addition to facilities provided by universities, other colleges, or schools or institutions; (b) to play an effective role in the development and expansion of opportunities for Kenyans wishing to continue with their education in the disciplines approved by the Academic Board; (c) to provide consultancy services in health related areas; (d) to develop health trainers who can effectively teach, conduct operational research, develop relevant and usable health learning materials and manage health training institutions;</p>	<p>5(1)(b) - Delete the expression "Academic Board" and substitute therefor the expression "academic council". Delete the expression "constituent training centres" appearing in paragraph (h) and substitute therefor the expression "a campus".</p>		<p>The amendment replaces the academic Board with the academic council established under the proposed new section 11. The amendment further refers to the constituent centres as campuses of the College.</p>

<p>(e) to undertake research in disciplines and matters approved by the Academic Board either directly or through the medium of connected universities, or other colleges, schools or institutions;</p> <p>(f) to conduct examinations for and to grant diplomas, certificates, and other awards of the College;</p> <p>(g) to determine who may teach and what may be taught and how it may be taught in the College; and</p> <p>(h) to examine and make proposals for the establishment of constituent training centres and faculties.</p>			
<p>Section 5(2)</p> <p>(2) For the better carrying out of the functions and objects of the College, the Board of management may establish faculties of the College.</p>	<p>Delete the expression "Board of Management" and substitute therefor the expression "Board of Directors".</p>		<p>The amendment replaces the name of the membership of the Board from the Board of management to the Board of Directors.</p>
<p>Section 7(a)</p> <p>Membership of the College</p> <p>The members of the College shall be—</p> <p>(a) the Principal;</p> <p>(b) the Deputy Principals;</p>	<p>Delete the expression "Principal" and substitute therefor the expression "Chief Executive Officer".</p>		<p>The amendment replaces the Principal with the Chief Executive Officer appointed under the proposed new section 8(1).</p>

<p>(c) the head of each constituent training centre;</p> <p>(d) the members of the Board of management;</p> <p>(e) the members of the Academic Board;</p> <p>(f) the lecturers and tutors;</p> <p>(g) the librarian;</p> <p>(h) the students;</p> <p>(i) the Alumni Association;</p> <p>(j) such other members of the staff of the College or any other body formally admitted into association with the College as the Board of management may from time to time determine.</p>			
<p>Section 7(b)</p>	<p>Delete the expression "Deputy Principal" and substitute therefor the expression "Deputy Director".</p>		<p>The amendment replaces the Deputy Principal with the Deputy Director, as provided in the new section 8.</p>
<p>Section 7(d)</p>	<p>Delete the expression "Board of Management" and substitute therefor the expression "Board of Directors".</p>		<p>The amendment replaces the name of the membership of the Board from the Board of management to the Board of Directors.</p>
<p>Section 7(i)</p>	<p>Delete.</p>		<p>The amendment has the effect of abolishing the Alumni Association as members of the College.</p>

<p>Section 7(j)</p>	<p>Delete the expression "Board of Management" and substitute therefor the expression "Board of Directors".</p>	<p>The amendment replaces the name of the membership of the Board from the Board of Management to the Board of Directors.</p>
<p>Section 8-Marginal note The Principal and Deputy Principals</p>	<p>Delete the marginal note and substitute therefor the following new marginal note-</p> <p>The Chief Executive Officer and Deputy Directors.</p>	<p>The amendment is for purposes of correct referencing. In terms of the amendments, the Principal shall be referred to as the CEO while the Deputy Principals shall be referred to as Deputy Directors.</p>
<p>Section 8(1) The Principal and Deputy Principals</p> <p>(1) There shall be a Principal of the College who shall be appointed by the Minister on the advice of the Board of management.</p>	<p>Delete and substitute therefor the following new subsection</p> <p>(1) There shall be a Chief Executive Officer of the College who shall be appointed by the Board of Directors, who shall have the following minimum qualifications -</p> <p>(a) hold a degree in the relevant field from a university recognized in Kenya;</p> <p>(b) has at least ten years' knowledge and experience in the relevant field;</p> <p>(c) meet the requirements of Chapter Six of the Constitution; and</p> <p>(d) have served in a position of senior management for a period of at least five years.</p>	<p>The qualification for a CEO should be high to ensure the most competent person is appointed.</p> <p>The amendment sets out the qualifications for appointment as CEO who shall now be appointed by the Board.</p>
<p>Section 8(2)</p> <p>(2) The Principal shall be the chief executive of the College and shall—</p> <p>(a) have overall</p>	<p>Delete the expression "Principal" and substitute therefor the expression "Chief Executive Officer".</p> <p>Delete the expression "Board of Management" appearing in paragraph (c) and substitute therefor the expression "Board</p>	<p>The amendment changes the term Principal who shall now be referred to as the CEO, and also replaces the name of the membership of the Board from</p>

<p>responsibility for the direction, organization, and administration and programmes of the College; (b) be the chairman of the Academic Board; and (c) be responsible to the Board of management for the general conduct and discipline of the staff and students.</p>	<p>of Directors”.</p>	<p>the Board of management to the Board of Directors.</p>
<p>Section 8(3) (3) The Board of management shall, after consultation with the Academic Board, appoint two Deputy Principals from among the lecturers of the College to assist the Principal, one in the academic matters of the College and the other in administration matters including the administration of the College funds and assets.</p>	<p>Delete and substitute therefor the following subsection -</p> <p>(3) The Board of Directors shall appoint Deputy Directors in the following areas to assist the Chief Executive Officer -</p> <ul style="list-style-type: none"> (a) academic; (b) finance, planning and administration; (c) research and innovation; and (d) resource mobilization and consultancy. 	<p>The amendment provides for the appointment of Deputy Directors who replace Deputy Principals.</p>
<p>Section 8(4) (4) The Principal and Deputy Principals shall hold office upon such terms and for such period as may be provided by the statutes and upon the expiration of the period shall</p>	<p>Delete and substitute therefor the following subsection -</p> <p>(4) The Chief Executive Officer and Deputy Directors shall hold office upon such terms and for such period as may be provided by the statutes and upon the expiration of the period shall be eligible for re-appointment upon satisfactory performance of duties.</p>	<p>There is need to set a clear tenure</p> <p>The amendment replaces the terms Principal and Deputy Principals with the terms CEO</p> <ul style="list-style-type: none"> • Kenya Medical Training College- Migori • Matthew Kipturgo <p>The term should be for 5 years</p>

<p>be eligible for re-appointment.</p>		<p>renewable once</p>	<p>and Deputy Directors respectively. The amendment does not however provide for a tenure of office.</p>
<p>Section 8(5) (5) The Board of management shall appoint one of the Deputy Principals appointed under subsection (3) to be the secretary to the Board of management and the Academic Board.</p>	<p>Delete and substitute therefor the following subsection - (5) The Board of Directors shall appoint one of the Deputy Directors appointed under subsection (3) to be the secretary to the Board of Directors and the Academic Board.</p>		<p>The amendment provides for the appointment of a Deputy Director as a secretary of the Board.</p>
<p>Section 9-Marginal note The Board of management</p>	<p>Delete the marginal note and substitute therefor the following new marginal note - The Board of Directors.</p>		<p>The amendment replaces the name of the membership of the Board from the Board of management to the Board of Directors.</p>
<p>Section 9(1) The Board of management (1) There shall be a Board of management of the College which shall consist of— (a) a chairman, vice-chairman and an honorary treasurer all of whom shall be appointed by the President; (b) the Director of Medical Services; (c) the Principal; (d) the Permanent Secretaries in the Ministries for the time being responsible for—</p>	<p>Delete and substitute therefor the following paragraph - (1) There shall be a Board of Directors which shall consist of - (a) a chairperson appointed by the President; (b) the Chief Executive Officer who shall be an <i>ex-officio</i> member; (c) the Principal Secretary in the Ministry for the time being responsible for Health or their designated representative; (d) the Principal Secretary in the Ministry for the time being responsible for finance or their designated representative; (e) a representative from Ministry responsible for Health with knowledge and expertise in health appointed</p>	<p>Council of Governors 9(1)(e)- Replace paragraph (e) with the following words— (e) four independent members appointed by the appointed by the County Governments taking into consideration gender balance, regional balance and requisite technical expertise, all of them</p>	<p>The Kenya Medical Training College Act Cap 261 proposed for amendment does not include County representation in the Board of Directors yet most KMTc campuses are based in the Counties. This should be corrected for adequate county representation The Boards' function are intergovernmental in nature and therefore the need to restructure its composition to accommodate</p>

<p>(i) health; • (ii) finance; and (iii) education; (e) the Chief Nursing Officer; (f) the Director of Personnel Management; (g) the Director, Kenyatta National Hospital; (h) the Principal, College of Health Sciences at the University of Nairobi; (i) the Director, Kenya Medical Research Institute; (j) two representatives of the constituent training centres appointed by the Minister; and (k) not more than three persons co-opted by the Board of management from time to time, not being public officers or employees of the College, to represent the public interest.</p>	<p>by Cabinet Secretary; and (f) four independent members appointed by the Cabinet Secretary taking into consideration gender balance, regional balance and requisite technical expertise.</p>	<p>should come from the Counties</p>	<p>the interests of the two levels of government adequately. The provision of the Cabinet secretary to make the appointments negates the spirit of devolution. Counties should make appointments for their representatives The amendment reduces the membership of the Board from 13 to 9 members.</p>
<p>Section 9- new subsections</p>	<p>Insert the following new subsections immediately after subsection (1) - (1A) The Chairperson shall preside over all meetings of the Board of Directors and in his absence the members present shall choose one of the members to act as the Chairperson. (1B) A person appointed to act as Chairman shall have all the powers and privileges of the Chairman in respect of</p>		<p>The amendment serves to provide for the procedure of the meetings of the Board.</p>

<p>the meeting at which he presides.</p>	<p>(1C) The Board of Directors shall meet at least once every three months.</p> <p>(1D) Each member of the Board of Directors shall have a deliberative vote and the Chairman for the time being at any meeting of the Board shall, in addition to the deliberative vote have a casting vote.</p> <p>(1E) Two thirds of the members of the Board of Directors, including the Chairman, shall constitute a quorum at any meeting of the Board, and all acts, matters or things authorized or required to be done by the Board of Directors, may be decided at any meeting at which a quorum is present.</p> <p>(1F) The powers of the Board of Directors shall not be affected by any vacancy in membership thereof.</p> <p>(1G) The Chief Executive Officer shall be a member without voting rights.</p> <p>(1H) The Board of Directors may constitute committees and others to perform the following functions -</p> <ul style="list-style-type: none"> (a) audit; (b) governance; (c) risk; (d) compliance; (e) finance; (f) human resource; (g) strategy; and (h) technical matters. 		
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<p>Section 9(2)</p> <p>(2) Subject to subsection (3), a member of the Board of management, other than an <i>ex officio</i> member, shall hold office for a period of three years from the date of appointment specified in the instrument of appointment, but shall be eligible for re-appointment.</p>	<p>Delete the expression "Board of management" and substitute therefor the expression "Board of Directors".</p> <p>Insert the words "for one further term" immediately after the word "re-appointment".</p>		<p>The amendment replaces the name of the membership of the Board from the Board of management to the Board of Directors.</p> <p>The amendment also specifies that the eligibility for re-appointment shall be only for one further term.</p>
<p>Section 9(3)</p> <p>(3) The office of a member of the Board of management shall become vacant—</p> <p>(a) if, not being an <i>ex officio</i> member—</p> <p>(i) he resigns his office by writing under his hand addressed to the Principal;</p> <p>(ii) he is convicted of an offence and sentenced to imprisonment for a term exceeding six months or to a fine exceeding two thousand shillings;</p> <p>(iii) he is absent, without permission of the Board of management, from three consecutive meetings;</p> <p>(b) if the Board of Management is satisfied that such member is, by reason of physical or mental infirmity, unable to exercise the</p>	<p>Delete and substitute therefor the following paragraph –</p> <p>(3) The office of a member of the Board of management shall become vacant -</p> <p>(a) if, not being an <i>ex officio</i> member—</p> <p>(i) he resigns his office by writing under his hand addressed to the Principal;</p> <p>(ii) he is convicted of an offence and sentenced to imprisonment for a term exceeding six months or to fine exceeding two thousand shillings;</p> <p>(iii) he is absent, without permission of the Board of management, from three consecutive meetings;</p> <p>(b) if the Board of Management is satisfied that such member is, by reason of physical or mental infirmity, unable to exercise the functions of his office;</p> <p>(c) upon death;</p> <p>(d) upon adjudication of bankruptcy by a court of competent jurisdiction;</p> <p>(e) upon conviction of an offence related to fraud; or</p> <p>(f) upon the conviction for offence under this Act.</p> <p>Delete the expression "Principal" and substitute therefor the expression "Chief Executive Officer".</p>		<p>The amendment increases the circumstances under which the office of a Board member shall become vacant.</p> <p>There is need to amend the opening sentence so as to refer to the Board as the Board of Directors.</p>

<p>functions of his office; (c) upon death.</p>			
<p>Section 9(4) (4) Where the office of a member of the Board of management becomes vacant under subsection (3), the Principal shall forthwith notify the vacancy to the appropriate appointing body or person.</p>	<p>Delete the expression "Board of management" and substitute therefor the expression "Board of Directors".</p>		<p>The amendment replaces the name of the membership of the Board from the Board of management to the Board of Directors.</p>
<p>Section 9(5) (5) The procedure and the conduct and regulation of the affairs of the Board of management shall be regulated by the statutes.</p>	<p>Delete and substitute therefor the following subsection - (5) Notwithstanding the provisions of this section, the procedure and conduct of affairs of the Board of Directors shall be regulated by the statutes.</p>		<p>The amendment replaces the name of the membership of the Board from the Board of management to the Board of Directors.</p>
<p>New section</p>	<p>Insert the following new section immediately after section 9 Corporation Secretary. 9A. The Board shall appoint a Corporation Secretary who shall be the secretary to the Board.</p>		<p>The amendment provides for the appointment of a corporation secretary.</p>
<p>Section 10-Marginal note Functions of the Board of management</p>	<p>Delete the marginal note and substitute therefor the following marginal note - Functions of the Board of Directors.</p>		<p>The amendment replaces the name of the membership of the Board from the Board of management to the Board of Directors.</p>

<p>Section 10(1) Functions of the Board of management (1) Subject to this Act and without prejudice to any written law, trust, deed or other instrument, or power by or under which a constituent training centre is established, the government, control and administration of the College shall be vested in the Board of management.</p>	<p>Delete the expression "Board of management" and substitute therefor the expression "Board of Directors".</p>		<p>The amendment replaces the name of the membership of the Board from the Board of management to the Board of Directors.</p>
<p>Section 10(2) (2) Notwithstanding subsection (1), the Board of management shall have power — (a) to administer the property and funds of the College, other than property and funds of a constituent training centre, in a manner and for purposes which shall promote the best interests of the College; but the Board of management shall not charge or dispose of immovable property of the College except in accordance with the procedures laid down by the State Corporations Advisory Committee</p>	<p>Delete and substitute therefor the following subsection - (2) Notwithstanding subsection (1), the Board of Directors shall have power — (a) to administer the property and funds of the College in a manner and for purposes which shall promote the best interests of the College; but the Board of Directors shall not charge or dispose of immovable property of the College except in accordance with the procedures laid down by the State Corporations Advisory Committee established, under the State Corporations Act; (b) to receive, on behalf of the College or a campus, gifts, donations, grants or other moneys and to make disbursements therefrom to the campuses or other bodies or persons; (c) in consultation with the Cabinet Secretary, to determine the scales of fees payable by or in respect of students at the College and to prescribe the conditions under which fees may be remitted in</p>		<p>The amendment-</p> <ul style="list-style-type: none"> • Deletes the words "other than property and funds of a constituent training centre" in paragraph (a); • Replaces "constituent training centre" with campus- (b); • Replaces "Minister" with "Cabinet Secretary"- (c); • Adds provision of welfare of staff of the College as a function of the Board- (d); and • Introduces an additional power of the Board to make investments on behalf of the Board- (g).

<p>established, under the State Corporations Act (Cap. 446);</p> <p>(b) to receive, on behalf of the College or a constituent training centre, gifts, donations, grants or other moneys and to make disbursements therefrom to the constituent training centres or other bodies or persons;</p> <p>(c) with the approval of the Minister, to determine the scales of fees payable by or in respect of students at the College and to prescribe the conditions under which fees may be remitted in whole or in part;</p> <p>(d) to provide for the welfare of the students of the College;</p> <p>(e) to enter into association with universities, other colleges and other institutions of learning whether within Kenya or otherwise, as the Board of management may deem necessary and appropriate;</p> <p>(f) to make, after consultation with the Academic Board, regulations governing the conduct and discipline of students of the</p>	<p>whole or in part;</p> <p>(d) to provide for the welfare of the staff and students of the College;</p> <p>(e) to enter into association with universities, other colleges and other institutions of learning whether within Kenya or otherwise, as the Board of Directors may deem necessary and appropriate;</p> <p>(f) to make, after consultation with the Academic Board, regulations governing the conduct and discipline of students of the College; and</p> <p>(g) to make investments on behalf of the College.</p>		
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College.			
<p>Section 11 The Academic Board</p> <p>(1) There shall be an Academic Board of the College which shall consist of—</p> <p>(a) the Principal, who shall be the chairman of the Academic Board;</p> <p>(b) the Deputy Principals;</p> <p>(c) the heads of the faculties of the College;</p> <p>(d) the head of each constituent training centre;</p> <p>(e) two members of the academic staff of the College, not being members of the Academic Board under any other provisions of this subsection, elected by the College Staff Association;</p> <p>(f) two student members elected by the student body of the College; except that the student members shall not be entitled to attend deliberations of the Academic Board on matters</p>	<p>Delete and substitute therefor the following section -</p> <p>The Academic Council.</p> <p>11. (1) There shall be an Academic Council of the College which shall consist of—</p> <p>(a) the Chief Executive Officer, who shall be the chairman of the Academic Council;</p> <p>(b) the Deputy Directors;</p> <p>(c) the heads of the faculties of the College;</p> <p>(d) the head of each campus;</p> <p>(e) two members of the academic staff of the College, not being members of the Academic Council under any other provisions of this subsection, elected by the College Staff Association; and</p> <p>(f) two student members elected by the student body of the College, except that the student members shall not be entitled to attend deliberations of the Academic Council on matters which are considered by the Chief Executive Officer to be confidential and which relate to examinations, the</p>		<p>The amendment replaces the Academic Board with the Academic Council, as well as its membership in paragraphs (a) and (b).</p>

<p>which are considered by the Principal to be confidential and which relate to examinations, the general discipline of students and other related matters.</p> <p>(2) The Academic Board shall have the following powers—</p> <p>(a) to satisfy itself regarding the content and academic standard of any course of study in respect of any diploma, certificate or other award of the College, and to report its findings to the Board of management;</p> <p>(b) to propose regulations to be made by the Board of management regarding the standard of proficiency to be gained in each examination for a diploma, certificate or other award;</p> <p>(c) to decide which persons have attained such standard of proficiency or are otherwise fit to be granted the diploma, certificate or other award;</p> <p>(d) to initiate proposals relating to the conduct of the College generally, and to discuss any matter relating to</p>	<p>general discipline of students and other related matters.</p> <p>(2) The Academic Council shall have the following powers -</p> <p>(a) to satisfy itself regarding the content and academic standard of any course of study in respect of any diploma, certificate or other award of the College, and to report its findings to the Board of Directors;</p> <p>(b) to propose regulations to be made by the Board of Directors regarding the standard of proficiency to be gained in each examination for a diploma, certificate or other award;</p> <p>(c) to decide which persons have attained such standard of proficiency or are otherwise fit to be granted the diploma, certificate or other award;</p> <p>(d) to initiate proposals relating to the conduct of the College generally, and to discuss any matter relating to the College, including the establishment of faculties or training programmes, and make representations thereon to the Board of Directors;</p>		
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<p>the College, including the establishment of faculties or training programmes, and make representations thereon to the Board of management;</p> <p>(e) to make regulations governing such other matters as are within its powers in accordance with the provisions of this Act or the statutes.</p> <p>(3) Notwithstanding any other provision of this Act, the Board of management shall not initiate any action in respect of any of the matters mentioned in paragraphs (a), (b) or (c) of subsection (2) except upon receipt of a report or proposal of the Academic Board thereunder, and the Board of management shall not reject any such report or reject or amend any regulations so proposed without further reference to the Academic Board.</p> <p>(4) Notwithstanding the provisions of subsection (2), the training, registration, enrolment and licensing of nurses shall be governed by the provisions of the Nurses</p>	<p>(e) to make regulations governing such other matters as are within its powers in accordance with the provisions of this Act or the statutes;</p> <p>(f) selection and admission of students; and</p> <p>(g) establish technical committees to enable the Academic Council to carry out the necessary functions</p> <p>(3) Notwithstanding any other provision of this Act, the Board of Directors shall not initiate any action in respect of any of the matters mentioned in subsection (2) (a), (b) or (c), except upon receipt of a report or proposal of the Academic Council thereunder, and the Board of Directors shall not reject any such report or reject or amend any regulations so proposed without further reference to the Academic Council.</p> <p>(4) Subsection (2) shall be construed to incorporate the provisions of all other written laws that govern training, registration, enrolment and licensing of health professionals.</p>		
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<p>Act (Cap. 257).</p>		
<p>Section 12(2) The Alumni Association (1) There shall be an Alumni Association of the College which shall consist of the past and future graduates of the College and such other persons as may be prescribed by the statutes. (2) The Alumni Association shall have the right to meet and discuss any matter relating to the College and to transmit resolutions thereon to the Board of management and the Academic Board, and may exercise such other functions as the statutes may prescribe.</p>	<p>Delete the expression "Board of management" and substitute therefor the expression "Board of Directors". Delete the expression "Academic Board".</p>	<p>The amendment replaces the name of the membership of the Board from the Board of management to the Board of Directors. The amendment also replaces the term "Academic Board" with "Academic Council".</p>
<p>Section 13(1) The staff of the College (1) The academic staff of the College shall consist of the Principal, the Deputy Principal, the Librarian and all members of staff who are engaged in teaching or research.</p>	<p>Delete the expression "Principal, the Deputy Principals" and substitute therefor the expression "Chief Executive Officer, the Deputy Directors".</p>	<p>The amendment replaces the terms used according to the proposed amendments.</p>

<p>Section 13(2)</p> <p>(2) The administrative staff of the College shall consist of a finance officer and such other members of the staff, not being engaged in teaching or research, as the Board of management may from time to time, determine.</p>	<p>Delete the expression "Board of management" and substitute therefor the expression "Board of Directors".</p>	<p>The amendment replaces the name of the membership of the Board from the Board of management to the Board of Directors.</p>
<p>Section 13(3)</p> <p>(3) All the members of the staff of the College shall, subject to this Act, be appointed by the Board of management, and shall be so appointed either—</p> <p>(a) upon such terms and conditions of service as may be prescribed by the statutes; or</p> <p>(b) in the case of an officer seconded from the service of any university, university college or similar institution, any other college, the Government or any other public service or service of a state corporation, on such terms and conditions as may be agreed between the Board of management and the seconding body.</p>	<p>Delete the expression "Board of management" wherever it appears and substitute therefor the expression "Board of Directors".</p>	<p>The amendment replaces the name of the membership of the Board from the Board of management to the Board of Directors.</p>

<p>Section 13(4)</p> <p>(4) The Board of management may, subject to such restrictions, if any, as it may impose, delegate, either generally or specially, to any person or committee, the power to appoint any member of the staff of the College.</p>	<p>Delete the expression "Board of management" and substitute therefor the expression "Board of Directors".</p>	<p>The amendment replaces the name of the membership of the Board from the Board of management to the Board of Directors.</p>
<p>Section 13(5)(a)</p> <p>(5) All members of the staff of the College shall—</p> <p>(a) be subject to the general authority of the Board of management and of the Principal;</p> <p>(b) be deemed to be employed on a full-time basis unless specifically provided by the statutes or by the terms of a particular appointment.</p>	<p>Delete the expression "Principal" and substitute therefor the expression "Chief Executive Officer".</p> <p>Delete the expression "Board of management" and substitute therefor the expression "Board of Directors".</p>	<p>The amendment replaces the terms used according to the proposed amendments.</p>
<p>Section 13(6)</p> <p>(6) There may be established with the approval of the Board of management a College staff Association.</p>	<p>Delete the expression "Board of management" and substitute therefor the expression "Board of Directors".</p>	<p>The amendment replaces the terms used according to the proposed amendments.</p>

<p>Section 14(1) Performance of functions in absence of office holders (1) In the event of the incapacity of the Principal, the functions of the Principal may during the incapacity be performed by the Deputy Principal appointed for the purpose by the Board of management.</p>	<p>Delete and substitute therefor the following subsection - (1) In the event of the incapacity, the functions of the Chief Executive Officer may, during the incapacity, be performed by the Deputy Director appointed for that purpose by the Board of Directors.</p>		<p>The amendment replaces the terms used according to the proposed amendments. The provision should however make it mandatory that in the CEO's absence his functions shall be performed by the appointed Deputy Director.</p>
<p>Section 14(2) (2) In the event of the simultaneous incapacity of the Principal and the Deputy Principal, the Minister, after consultation with the chairman of the Board of management, may appoint a member of the academic staff of the College to perform the functions of the Principal during such incapacity.</p>	<p>Delete and substitute therefor the following subsection - (2) In the event of the simultaneous incapacity of the Chief Executive Officer and the Deputy Directors, the Cabinet Secretary, after consultation with the chairman of the Board of Directors, may appoint a member of the academic staff of the College to perform the functions of the Chief Executive Officers during such incapacity.</p>		<p>The amendment replaces the terms used according to the proposed amendments.</p>
<p>Section 14(3) (3) In the event of the incapacity of any member of the college, other than the Principal, the Principal may appoint a suitable person to perform the functions of the member during the incapacity.</p>	<p>Delete the expression "Principal" wherever it appears and substitute therefor the expression "Chief Executive Officer".</p>		<p>The amendment replaces the terms used according to the proposed amendments.</p>

<p>Section 16(1) Investment of funds (1) The Board of management may invest any of the funds of the College in securities in which for the time being trustees may by law invest trust funds or in any other securities which the Treasury may from time to time approve for the purpose.</p>	<p>Delete the expression "Board of management" and substitute therefor the expression "Board of Directors". Insert the words "including real estate" immediately after the words "approved for the purpose".</p>	<p>The amendment replaces the terms used according to the proposed amendments. The amendment also seeks to include real estate as a method by which the funds of the College may be invested.</p>
<p>Section 16(2) (2) The Board of management may place on deposit with such bank or banks as it may determine any moneys not immediately required for the purposes of the College.</p>	<p>Delete the expression "Board of management" and substitute therefor the expression "Board of Directors".</p>	<p>The amendment replaces the terms used according to the proposed amendments.</p>
<p>Section 17(1) Annual estimates (1) Before the commencement of a financial year, the Board of management shall cause to be prepared estimates of the revenue and expenditure of the College for that year.</p>	<p>Delete the expression "Board of management" and substitute therefor the expression "Board of Directors".</p>	<p>The amendment replaces the terms used according to the proposed amendments.</p>

<p>Section 17(2)(f)</p> <p>(2) The annual estimates shall make provisions for all the estimated expenditure of the College for the financial year concerned, and in particular shall provide—</p> <p>(a) for the payment of the salaries, allowances and other charges in respect of the staff of the College;</p> <p>(b) for the payment of the pensions, gratuities and other charges in respect of the retirement benefits which are payable out of the funds of the College;</p> <p>(c) for the proper maintenance of the buildings and grounds of the College;</p> <p>(d) for the proper maintenance, repair and replacement of the equipment and other movable property of the College;</p> <p>(e) for the funding of the cost of teaching and research</p>	<p>Delete the expression "Board of management" and substitute therefor the expression "Board of Directors".</p>		<p>The amendment replaces the terms used according to the proposed amendments.</p>
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<p>activities of and in the College;</p> <p>(f) for the creation of such funds to meet future or contingent liabilities in respect of retiring benefits, insurance or replacement of buildings or equipment and in respect of such other matters as the Board of management may think fit.</p>			
<p>Section 17(3)</p> <p>(3) Annual estimates shall be approved by the Board of management before the commencement of the financial year to which they relate, and shall be submitted to the Minister for approval and after the Minister has given his approval the Board of management shall not increase any sum provided in the estimates without the consent of the Minister.</p>	<p>Delete the expression "Board of Management" wherever it appears and substitute therefor the expression "Board of Directors".</p> <p>Delete the expression "Minister" wherever it appears and substitute therefor the expression "Cabinet Secretary".</p>		<p>The amendment replaces the terms used according to the proposed amendments.</p> <p>The amendment also seeks to use the term "Cabinet Secretary" as provided in the Constitution.</p>
<p>Section 17(4)</p> <p>(4) No expenditure shall be incurred for the purposes of the College except in accordance with the annual estimates approved under subsection (3) or in pursuance of an authorization of the Board</p>	<p>Delete and substitute therefor the following subsection –</p> <p>(4) No expenditure shall be incurred for the purposes of the College except in accordance with the annual estimates approved under subsection (3) or in pursuance of an authorization of the Board of Directors given with the prior approval of the Cabinet Secretary.</p>		<p>The amendment replaces the terms used according to the proposed amendments.</p> <p>The amendment further allows the College to reallocate funds with the approval of the Cabinet Secretary, and also provides the</p>

<p>of management given with the prior approval of the Minister.</p>	<p>New subsections-</p> <p>(5) Where justifiable reasons exist, a college may seek authorization of the Board of Directors given with the prior approval of the Cabinet Secretary for reallocation of funds.</p> <p>(6) Sources of funds for the College shall be -</p> <p>(a) the Exchequer;</p> <p>(b) fees charged by the College;</p> <p>(c) the income from resource mobilization; and</p> <p>(d) any other that the Board of Directors may authorize.</p>		<p>sources of funds of the College.</p>
<p>Section 18(1) Accounts and audit (1) The Board of management shall cause to be kept all proper books and records of account of the income, expenditure and assets of the College.</p>	<p>Delete the expression "Board of management" and substitute therefor the expression "Board of Directors".</p>		<p>The amendment replaces the terms used according to the proposed amendments.</p>
<p>Section 18(2) (2) Within a period of three months from the end of each financial year, the Board of management shall submit to the Auditor-General (Corporations) the accounts of the College together with— (a) a statement of income and expenditure during the year; and (b) a statement of the assets and liabilities of the College</p>	<p>Delete the expression "Board of management" and substitute therefor the expression "Board of Directors".</p>		<p>The amendment replaces the terms used according to the proposed amendments.</p>

<p>on the last day of that year.</p>			
<p>Section 18(3) (3) The accounts of the College shall be audited and reported on annually by the Auditor-General (Corporations) in accordance with Part VII of the Exchequer and Audit Act (Cap. 412).</p>	<p>Delete the expression "(Corporations)".</p>		<p>The amendment is for purposes of using the term "Auditor General" as used in the Constitution.</p>
<p>Section 19(1) Statutes (1) In the performance of its functions under this Act, the Board of management shall, subject to this Act, make statutes generally for the government, control and administration of the College and for the better carrying into effect of the purposes of this Act, and in particular for— (a) the establishment of faculties, institutes and schools of the College; (b) the description of diplomas, certificates and other academic qualifications;</p>	<p>Delete the expression "Board of management" wherever it appears and substitute therefor the expression "Board of Directors". Delete the words "boarding charges" appearing in paragraph (e) and substitute therefor the words "user charges".</p>		<p>The amendment replaces the terms used according to the proposed amendments. The amendment also deletes the power of the Board to make statutes relating to boarding charges and instead provides for user charges.</p>

<p>(c) the requirements for the award of diplomas, certificates and other academic qualifications;</p> <p>(d) the conduct of examinations;</p> <p>(e) prescribing fees and boarding charges;</p> <p>(f) settling the terms and conditions of service, including the appointment, dismissal and recommendation of retirement benefits of the members of the staff of the College;</p>			
<p>Section 19(2)</p> <p>(2) Notwithstanding subsection (1), the Board of management shall not make, amend or revoke any statutes relating to the functions and privileges of the Principal or the Academic Board without first ascertaining the opinion of the Academic Board.</p>	<p>Delete and substitute therefor the following subsection -</p> <p>(2) Notwithstanding subsection (1), the Board of Directors shall not make, amend or revoke any statutes relating to the functions and privileges of the Chief Executive Officer or the Academic Council without first ascertaining the opinion of the Academic Council.</p>		<p>The amendment replaces the terms used according to the proposed amendments.</p>
<p>Section 19(3)</p> <p>(3) Statutes shall only be made by resolution passed at a meeting of the Board of management supported by a majority of not less than</p>	<p>Delete.</p>		<p>The deletion removes the procedure for making and passing statutes by the Board, since the procedure for the conduct of the affairs of the Board is provided in the</p>

<p>three-fourths of the members present and voting being not less than half of the total membership of the Board of management.</p>			<p>proposed new subsections (1A)-(1H) in section 9.</p>
<p>Section 19(4) (4) Statutes or regulations made by the Board of management under this Act shall not be published in the <i>Gazette</i> but shall be brought to the attention of all persons affected or likely to be affected by them.</p>	<p>Delete.</p>		<p>The amendment removes the requirement of notification in respect of statutes and regulations made by the Board.</p>
<p>Section 20(1) Protection of name (1) Notwithstanding any other written law, no public officer performing functions relating to the registration of companies or business names shall accept for registration any name which includes together with the word "College" the words "Kenya Medical Training" or the words "Medical Training" unless the application for the registration is accompanied by the written consent of the Board of management.</p>	<p>Delete the expression "Board of management" and substitute therefor the expression "Board of Directors".</p>		<p>The amendment replaces the terms used according to the proposed amendments.</p>

<p>Section 20(2) (2) Any person who, except with the written consent of the Board of management, uses the words "College" together with the "Kenya Medical Training" or the words "Medical Training" in furtherance of, or as, or in connection with, any advertisement for any trade, business, calling or profession shall be guilty of an offence and liable to a fine not exceeding thirty thousand shillings or to imprisonment for a term not exceeding twelve months or to both.</p>	Delete the expression "Board of management" and substitute therefor the expression "Board of Directors". Delete the words "thirty thousand shillings or to imprisonment for a term not exceeding twelve months or to both" and substitute therefor the words "five hundred thousand shillings or to imprisonment for a term not exceeding two years or to both".		The amendment replaces the terms used according to the proposed amendments. The amendment also increases the penalty for breach of the section.
<p>Section 21 Amendment of Schedules The Minister may in consultation with the Board of management, by notice in the <i>Gazette</i>, amend the Schedule.</p>	Delete the expression "Minister" and substitute therefor the expression "Cabinet Secretary". Delete the expression "Board of management" and substitute therefor the expression "Board of Directors".		The amendment replaces the terms used according to the proposed amendments.
<p>Section 22(8) Transitional provisions (8) Unless the Board of management otherwise directs, all persons who are members of the staff of the College of Health Professions, Nairobi,</p>	Delete the expression "Board of management" and substitute therefor the expression "Board of Directors".		The amendment replaces the terms used according to the proposed amendments.

<p>immediately before coming into operation of this Act, shall be members of staff of the College if they so desire and shall be deemed to have been appointed under this Act on the terms and conditions of service applicable to them immediately before the coming into operation of this Act.</p>			
<p>Section 22(9) (9) Unless the Board of management otherwise directs, the faculties of the College of Health Professions, Nairobi, existing immediately before the commencement of this Act shall be deemed to be the faculties of the College established under section 5(2).</p>	<p>Delete the expression "Board of management" and substitute therefor the expression "Board of Directors".</p>		<p>The amendment replaces the terms used according to the proposed amendments.</p>
<p>Schedule SCHEDULE CONSTITUENT TRAINING CENTRES 1. The Medical Training Centres established by the Government at— (a) Mombasa. (b) Machakos.</p>	<p>Delete the expression "constituent training centres" and substitute therefor the expression "campus" appearing in heading to the Schedule. Delete the expression "Medical training centres" and substitute therefor the expression "campus" appearing in paragraph 1. Insert a new paragraph immediately after paragraph 3-</p>		<p>The amendment replaces the terms used according to the proposed amendments. The amendment also introduces a requirement of the annual gazetting of campuses.</p>

<p>(c) Embu. (d) Meru. (e) Nyeri. (f) Murang'a. (g) Thika. (h) Garissa. (i) Nakuru. (j) Eldoret. (k) Kakamega. (l) Kisumu. (m) Kisii. (n) Homa Bay. (o) Karen, Nairobi. (p) Mathari Hospital, Nairobi. 2. The Hospital Maintenance Schools established by the Government at— (a) Meru. (b) Eldoret. (c) Kilifi. (d) Loitokitok. 3. The School of Clinical Medicine at Port Reitz, Mombasa.</p>	<p>4. The College campuses shall be <i>gazetted</i> annually.</p>		
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THE NUTRITIONISTS AND DIETICIANS ACT (NO. 18 OF 2007)

<p>Section 2 Interpretation of terms</p>	<p>Delete the definitions of the terms "dietician" and "nutritionist". Insert the following definitions in proper alphabetical sequence —</p>		<p>The amendments provide for the definition of various technical terms as used in the Act.</p>
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	<p>“article” includes—</p> <p>(a) any food, Nutrient or food supplements and any labelling or advertising materials in respect thereof; and</p> <p>(b) anything used for the preparation, preservation, packing or storing of any food, Nutrient or food supplements;</p> <p>“diet” means food or nutrients concentrates consumed by an individual or population for the purpose of nourishment and can either be formal diets, non-formal diets or informal diets;</p> <p>“dietetic technologist” means a person who has undergone professional training at diploma level with a bias in dietetics, registered and licensed under this Act;</p> <p>“dietician” means a person who has undergone professional training at degree level, with bias in clinical dietetics and food service diet therapy registered and licensed under this Act;</p> <p>“indexing” means a process of keeping an individual student pursuing a course in nutrition and/or dietetics for purposes of monitoring and subsequent professional examination, registered and licensed under this Act;</p> <p>“internship” means undergoing supervised one-year competency practice in s specialized are of nutrition or dietetics;</p> <p>“label” includes any legend, work or mark attached to, included in, belonging to or accompanying any food or food supplements;</p>		
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	<p>“nutrients” means compounds contained in food which nourish the body such as amino acids, simple sugars, fatty acids, vitamins and minerals;</p> <p>“nutrition technician” means a person who has undergone professional training at certificate level, registered and licensed under this Act;</p> <p>“nutrition technologist” means a person who has undergone professional training at diploma level, registered and licensed under this Act; and</p> <p>“nutritionist” means a person who has undergone professional training at degree level, with a bias in clinical, food science, community and public health competencies nutrition registered and licensed under this Act.</p>		
<p>Section 3</p> <p>Restriction on use of title</p> <p>Subject to the provisions of this Act, no person shall practise under any name, title or style containing the words or phrases “Nutrition”, “Nutritionist”, or “Dietician”, unless that person is registered under this Act as a nutritionist or dietician, as the case may be.</p>	<p>Delete and substitute therefor the following section -</p> <p>Restriction on the use of titles.</p> <p>3. (1) Subject to the provisions of this Act, no person shall practise under the name, title or style containing the words or phrases “Nutritionist”, or “Dietician”, “Nutrition technologist” “Technologist” “Nutrition or Dietetics technicians” unless that person holds a relevant degree, diploma or certificate from a recognized university or college, registered and licensed under this Act.</p>	<p>(2) Notwithstanding any other provisions of this Act, a person registered and licensed under this Act</p>	<p>The amendment introduces the requirement for practice to include a degree, diploma or certificate, as well as one-year internship.</p>

	<p>shall engage in private practice only if he holds a degree and has completed one-year internship or has a minimum two years' experience in nutrition and dietetics.</p>		
<p>Section 5(2) Establishment and composition of the Council of the Institute (1) The Council of the Institute is hereby established. (2) The Council shall consist of— (a) a Chairperson elected in terms of the First Schedule, who shall be a qualified nutritionist or dietician with at least 5 years of professional experience; and (b) four other nutritionists or dieticians, at least two of whom shall be women, elected in the manner set out in the First Schedule; (c) the Director of Medical Services, or his representative nominated by him/her in writing; (d) the Director of Nutrition and Dietetic Services in the Ministry of Health; (e) the Chief Nutritionist in</p>	<p>Delete and substitute therefor the following subsection - (2) The Council shall consist of - (a) a chairperson who shall be appointed by the Cabinet Secretary, who shall be a holder of, in the minimum, a Masters' of Science degree in nutrition or dietetics with at least fifteen years of professional experience after the first degree; (b) one qualified nutritionist or dietician professional in good standing from private practice who shall be appointed by the Cabinet Secretary; (c) the Director of Nutrition and Dietetics Services in the Ministry responsible for health; (d) one representative of the Consumers Federation of Kenya, who shall be a holder of at least a Bachelors' degree; (e) one representative of faculties teaching nutrition and dietetics at public universities who shall be competitively sourced and who shall be a holder of at least a Masters' degree; (f) one representative from public and private middle level colleges, offering courses in nutrition or dietetics; (g) a senior person with knowledge and expertise in matters health from the Ministry of responsible for health who shall be appointed by the Cabinet Secretary; (h) one member with technical knowledge and</p>	<p>Nutrition Association of Kenya Amend to read: (2) The Council shall consist of— (a) A Chairperson appointed by the Cabinet Secretary, who shall be a holder of, in the minimum a Bachelor's degree in Nutrition or dietetics and a MSc in Nutrition or dietetics with over 7 years of professional experience. (b) Two representatives each from the Nutritionists Association of Kenya (NAK) and Kenya community</p>	<ul style="list-style-type: none"> • The Act is for regulating nutritionists and Dietitians therefore the Chair should also hold relevant qualifications and experience in the mentioned field. • The associations are for the welfare of members and their interests should be addressed by their nominees and it's also in line with other councils under various acts • For purposes of regional and gender balance the Council of governors will send the representatives • Dropped representation of federation of Consumer organizations now that the Act is for Nutritionist and dietitians and the allied sectors are

<p>the Kenya National Hospital;</p> <p>(f) one representative of the Kenya Medical Association, elected by the Association;</p> <p>(g) four representatives appointed from four registered associations of nutritionists and dieticians;</p> <p>(h) one representative of the Federation of Kenya Consumer Organisations, elected by the Federation;</p> <p>(i) one representative of faculties of nutrition and dietetics of public universities, elected at a meeting of the faculties convened by the Kenya Coalition for Action in Nutrition;</p> <p>(j) one representative of faculties of nutrition and dietetics of private universities, elected at a meeting of the faculties convened by the Kenya Coalition for Action in Nutrition; and</p> <p>(k) two representatives from faculties of Nutrition and Dietetics from private and public diploma colleges.</p>	<p>competencies on finance who shall be appointed by the Cabinet Secretary;</p> <p>(i) the Chief Executive Officer as an ex-officio member.</p>	<p>Nutrition Association done in writing to the Cabinet Secretary of Health</p> <p>(c) The Director of Nutrition and Dietetics Services in the Ministry responsible for Health or a representative</p> <p>(d) Two representatives each from public and private universities nominated by a registered association done in writing to the Cabinet Secretary for Health;</p> <p>(e) One representative from Public and Private middle level colleges nominated by an registered association done in writing to the</p>	<p>represented by in the council</p> <p>The amendment reconstitutes the membership of the Council from 18 to 9 members.</p>
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		<p>Cabinet Secretary of Health;</p> <p>(f) Three registered Nutritionists/Dietitians nominated by the Council of Governors Considering Regional balance. (10 members)</p> <p>Council _____ of Governors</p> <p>5(2)(j)- Insert paragraph (j) immediately after paragraph (i) – at least three independent members appointed by the County Governments taking into consideration gender balance, regional balance and requisite technical expertise, all of them should come from the Counties</p>	<p>The Boards' function are intergovernmental in nature and therefore the need to restructure its composition to accommodate the interests of the two levels of government adequately.</p>
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<p>Section 5(14)</p> <p>(4) All appointments under this section shall be notified in the <i>Gazette</i>.</p>	<p>Delete and substitute therefor the following new sub section</p> <p>(4) All appointments under this section shall be notified in the <i>Gazette</i> by the Cabinet Secretary for Ministry of Health.</p>		<p>The amendment specifies with certainty that the Cabinet Secretary shall have the powers to issue <i>Gazette</i> notices on appointment of members of the Council of the Institute.</p>
<p>Section 5- new subsections</p>	<p>Insert the following subsections immediately after subsection (4) -</p> <p>(5) The appointments under subsection (2) shall consider gender, regional and ethnic balance.</p> <p>(6) The Council may establish a maximum of four committees to deal with matters of training, registration, finance and human resource, audit and risk policies management for proper administration of the Act.</p> <p>(7) The Council shall regulate its own procedures in accordance with the First Schedule.</p>		<p>The amendment makes further provisions in regards to the powers of the Council to establish Committees and the conduct of its affairs.</p>
<p>Section 6</p> <p>Functions of the Institute</p> <p>The functions of the Council shall be to—</p> <p>(a) determine and set a framework for the professional practice of nutritionists and dietitians;</p> <p>(b) set and enforce standards of professional practice and ethics on nutrition and dietetics;</p> <p>(c) enforce a programme of</p>	<p>Insert the following paragraph immediately after paragraph (i) -</p> <p>(j) working jointly with other bodies, participate actively on reviews of food, food supplements and fortifiers with nutrient claims.</p>		<p>The amendment provides an additional function of the Council, which is to conduct reviews.</p>

<p>quality assurance for the nutrition and dietetic profession;</p> <p>(d) approve institutions as institutions for the purpose of training persons seeking registration under this Act;</p> <p>(e) research into and provide public education on nutrition and dietetics;</p> <p>(f) maintain the competence of members by updating their knowledge through publications and the conduct of continuing professional education;</p> <p>(g) provide training for nutritionists and dietitians;</p> <p>(h) design programmes and methods for sensitization on suitable dietary and nutritional habits; and</p> <p>(i) perform such other functions as may be necessary for the proper administration of this Act.</p>			
<p>Section 7</p> <p>Delegation of powers of the Institute</p> <p>Subject to this Act, the Institute may either generally or in a particular case, delegate to any committee</p>	<p>Delete and substitute therefor the following section -</p> <p>Delegation of powers of the Institute.</p> <p>7. Subject to this Act, the Institute may either generally or in a particular case, delegate to any ad hoc committee of the Council or to any member, officer, employee, agent of the Institute or technical working group the exercise</p>		<p>The amendment serves to provide that the Committees established by the Council shall be ad hoc.</p>

<p>of the Council or to any member, officer, employee or agent of the Institute, the exercise of any of the powers of the Institute under this Act.</p>	<p>of any of the powers of the Institute under this Act.</p>		
<p>Section 8 Remuneration of Council members The Institute shall pay to its Council members such remuneration, fees or allowances for expenses as it may determine with the approval of the Minister.</p>	<p>Delete and substitute therefor the following section -</p> <p>Remuneration of Council members, fees, and other allowances to members of the Council as may be determined from time to time by Salaries and Remuneration Commission.</p>		<p>The amendment introduces the requirement for consultation with the Salaries and Remuneration Commission in the payment of salaries and benefits to public officers as stipulated in Article 230(4).</p>
<p>Section 9 The Chief Executive Officer (1) There shall be a Chief Executive Officer of the Institute who shall be appointed by the Council and whose terms and conditions of service shall be determined by the Council in the instrument of appointment. (2) The Chief Executive Officer shall hold office for a period of five years, renewable once. (3) The Chief Executive</p>	<p>Delete and substitute therefor the following section -</p> <p>The Chief Executive Officer.</p> <p>9. (1) There shall be a Chief Executive Officer of the Institute who shall be competitively appointed by the Council and whose terms and conditions of service shall be determined by Public Service Commission.</p> <p>(2) A person shall be qualified to be appointed as the Chief Executive Officer if the person-</p> <p>(a) possesses a Master of Science degree or its equivalent from a university recognised in Kenya;</p>		<p>The amendment introduces the qualifications for appointment of the CEO. However, the amendment provides that the CEO shall be appointed by the Council but his/her terms and conditions of service shall be determined by the Public Service Commission.</p>

<p>Officer shall, subject to the direction of the Council, be responsible for the management of the affairs of the Institute and shall be the secretary to the Council.</p>	<p>(b) has at least ten years professional and administrative experience in matters related to health; and</p> <p>(c) meets the requirements of Chapter Six of the Constitution.</p> <p>(3) The Chief Executive Officer shall hold office for a term of five years renewable once based on performance.</p> <p>(4) The Chief Executive Officer shall, subject to the direction of the Council, be responsible for the management of the day to day affairs of the Institute and in consultation with the council shall be spokesperson of the Institute.</p>		
<p>New section</p>	<p>Insert the following section immediately after section 9 - Corporation Secretary.</p> <p>9A. (1) The Council shall competitively appoint Corporation Secretary on part time or full time to facilitate the functions of the Council.</p> <p>(2) The Corporation Secretary shall the secretary to the Council but not a member of the Council.</p> <p>(3) The Corporation Secretary shall discharge his duties as stipulated in the State Corporation guidelines.</p> <p>(4) Corporation Secretary shall</p>		<p>The amendment provides for the appointment of a corporation secretary who shall be the secretary to the Council.</p>

<p>Section 12</p> <p>The establishment of the Accreditation Board</p> <p>(1) There is hereby established a Board known as the Kenya Nutrition and Dieticians Accreditation Board.</p> <p>(2) The Board shall consist of—</p> <p>(a) a Chairperson appointed by the Minister, who shall be a qualified nutritionist or dietician;</p> <p>(b) five persons who shall be qualified nutritionists or dieticians, nominated by the Council, two of whom shall be from institutions of higher learning, and appointed by the Commission for Higher Education;</p> <p>(c) two persons nominated by the Minister responsible for Education, one of whom</p>	<p>coordinate with the office of the Chief Executive Officer to facilitate the activities of the Council.</p> <p>(5) Corporation Secretary shall be a person of high integrity who meets the requirements of Chapter Six of the Constitution of Kenya, 2010.</p>		<p>The amendment abolishes the Kenya Nutrition and Dieticians Accreditation Board as established by the Act.</p>
<p>Section 12</p> <p>The establishment of the Accreditation Board</p> <p>(1) There is hereby established a Board known as the Kenya Nutrition and Dieticians Accreditation Board.</p> <p>(2) The Board shall consist of—</p> <p>(a) a Chairperson appointed by the Minister, who shall be a qualified nutritionist or dietician;</p> <p>(b) five persons who shall be qualified nutritionists or dieticians, nominated by the Council, two of whom shall be from institutions of higher learning, and appointed by the Commission for Higher Education;</p> <p>(c) two persons nominated by the Minister responsible for Education, one of whom</p>	<p>Delete.</p>		

<p>shall be from the Kenya Institute of Education, and the other from the Kenya National Examination Council;</p> <p>(d) two persons nominated by the Commission for Higher Education; and</p> <p>(e) two persons nominated by the Minister responsible for Health.</p> <p>(3) In nominating the persons under subsection (2)(b), the Council shall have regard to gender parity.</p>			
<p>Section 13</p> <p>Functions of the Accreditation Board</p> <p>The Accreditation Board shall generally have regard to the conduct of examinations and in particular shall—</p> <p>(a) prepare syllabuses of instruction and training courses for persons seeking registration under the Act;</p> <p>(b) prepare and conduct examinations for persons seeking registration under the Act;</p> <p>(c) charge the appropriate examination fees in</p>	<p>Delete and substitute therefor the following new section -</p> <p>Functions of 13. The Accreditation Committee shall generally may, in the conduct of the Accreditation Committee -</p> <p>(a) provide proper training of persons to be registered and licensed;</p> <p>(b) prepare syllabuses of instruction and training courses for persons seeking registration under the Act;</p> <p>(c) prepare and conduct examinations for persons seeking registration under the Act;</p> <p>(d) charge the appropriate examination fees in consultation</p>		<p>The amendment removes the functions of the Accreditation Board as it stands deleted in section 12. The amendment instead introduces the functions of the Accreditation Committee. However, neither the Act as it is presently nor the proposed new amendments provide for the establishment of the Accreditation Committee.</p>

<p>consultation with the Council of the Institute;</p> <p>(d) prepare regulations to be made by the Institute regarding the standard of proficiency to be gained in each examination for a diploma, degree or other award; and</p> <p>(e) report its decisions to the Council.</p>	<p>with the Council of the Institute;</p> <p>(e) prepare regulations to be made by the Institute regarding the standard of proficiency to be gained in each examination for a diploma, degree or other award;</p> <p>(f) develop regulations and offer internship programmes to graduates of nutrition and dietetics;</p> <p>(g) set up quality assurance unit to generally carry out broad perspectives quality management systems;</p> <p>(h) develop standards for training institutions for purposes of accreditation and licensing;</p> <p>(i) engage inspectors for various functions of the Committee who shall serve on such terms and conditions as the Council may determine from time to time;</p> <p>(j) participate actively in the committees of food and drugs authority within the Health Act, 2017;</p> <p>(k) review the authenticity and appropriateness of documents to be presented to for purposes of examination, internship, registration and licensing;</p> <p>(l) spearhead systems audits and</p>		
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	<p>certification of processes of the institute;</p> <p>(m) register and license persons qualified to be registered under this Act;</p> <p>(n) prepare a list of professionals to be deregistered by the institute in accordance with this Act;</p> <p>(o) keep a register of all registered members;</p> <p>(p) keep register of all licensed and retained professionals; and</p> <p>(q) to carry out the indexing of students enrolled in various institutions and monitor their progression.</p>		
<p>Section 14</p> <p>Secretary</p> <p>(1) There shall be a Secretary who shall be an officer of Accreditation Board.</p> <p>(2) The Secretary shall be responsible for the day to day affairs of the Accreditation Board and shall exercise and perform any such functions as the Board may from time to time determine.</p>	<p>Delete.</p>		<p>The amendment abolishes the position of the Secretary of the Accreditation Board who is now substituted with the Corporation Secretary appointed under the new section 9A.</p>

Section 15	Registration Committee	Delete.	The amendment abolishes the Registration Committee as established under the Act.
<p>(1) There is hereby established the Registration Committee, which shall be a committee of the Council.</p> <p>(2) The Registration Committee shall consist of—</p> <p>(a) a Registrar appointed by the Institute who shall be an <i>ex officio</i> member;</p> <p>(b) five persons who shall be qualified nutritionists or dieticians, two of whom shall be representatives of local universities, appointed by the Council;</p> <p>(c) the Chairperson of the Accreditation Board; and</p> <p>(d) the Attorney-General or his representative nominated by him in writing;</p> <p>(e) the Chairperson of the disciplinary committee.</p> <p>(3) The registration committee shall generally carry out the function of registering persons qualified to be registered under this Act.</p>			

<p>Section 16(c)</p> <p>Persons entitled to be registered</p> <p>A person shall be entitled to registration if he satisfies the Council that he is of good conduct and has paid the registration fee and—</p> <p>(a) has attained the age of 18 years;</p> <p>(b) has successfully undergone a certificate, diploma or degree course of instruction and has passed the appropriate examinations conducted or prescribed by the Institute; or</p> <p>(c) has passed the accreditation examination set by the Accreditation Board of the Council of the Institute.</p>	<p>Delete and substitute therefor the following subsection -</p> <p>(c) has passed the professional examination set by the training Committee of the Council.</p>	<p>The amendment deletes the requirement of an accreditation examination set by the Accreditation Board, and instead provides that the professional examination shall be set by the training Committee of the Council.</p> <p>There may be need to amend the proposed new section 5(6) which does not obligate the Council to establish committees but leaves it at the discretion of the Council.</p>
<p>Section 17(1)</p> <p>Registration of nutritionists and dieticians</p> <p>(1) A person eligible to be registered as a nutritionist or dietician shall apply in the prescribed form to the Registrar, and the application shall be</p>	<p>Delete the expression "Registrar" and substitute therefor the expression "Chief Executive officer".</p>	<p>The amendment removes the Registrar whose position is not created in the present Act as it is. The amendment therefore transfers the role of registration of nutritionists and dieticians to the CEO appointed under section 9.</p>

<p>accompanied by the prescribed fee.</p>		
<p>Section 19(1) Deregistration (1) The Council may at any time direct that the name of a person be removed from the register where such person— (a) fails within a period of six months from the date of an inquiry sent by the Registrar by registered post to the address appearing in the register against such person's name, to notify the registrar of his current address; (b) requests that his name be removed from the register, in which case such person may be required to satisfy the Council by an affidavit lodged with the Registrar that no criminal proceedings under this Act have been instituted or are likely to be instituted against him; or (c) is found by the Council to be guilty of professional misconduct in accordance with this Act.</p>	<p>Delete the expression "Registrar" and substitute therefor the expression "Chief Executive officer" wherever it appears.</p>	<p>The amendment removes the Registrar whose position is not created in the present Act as it is. The amendment therefore transfers the role of deregistration of persons to the CEO appointed under section 9. 19(1)-19(5).</p>

<p>Section 19(2)</p> <p>(2) The Registrar shall remove from the register any entry which has been incorrectly or fraudulently made.</p>	<p>Delete the expression "Registrar" and substitute therefor the expression "Chief Executive Officer".</p>		
<p>Section 19(3)</p> <p>(3) Subject to the provisions of this Act, the removal of a person's name from the register shall be notified by the Registrar to the person by registered mail addressed to the address appearing in the register against his name immediately before such removal.</p>	<p>Delete the expression "Registrar" and substitute therefor the expression "Chief Executive Officer".</p>		
<p>Section 19(5)</p> <p>(5) The Registrar shall from time to time update the register, removing from it the names of any deceased members and degazetting them.</p>			

<p>Section 21(1) Appeal against order of the Council</p> <p>(1) Any person aggrieved by a decision of the Council may appeal to the High Court. (2) The Council may appear as respondent and be heard at any application against its decision.</p>	<p>Insert the following words "within thirty days of notification of the decision" immediately after the word "Court".</p>		<p>The amendment introduces a timeline within which a person aggrieved by a decision of the Council may appeal to the High Court.</p>
<p>Section 25(1) Establishment of the Disciplinary Committee</p> <p>(1) There is hereby established a committee to be known as the Disciplinary Committee.</p>	<p>Insert the words "of the institute" immediately after the words "Disciplinary Committee".</p>	<p>Nutrition Association of Kenya</p> <p>Now section 24 to read: (1) There is hereby established a committee to be known as the Disciplinary Committee of the institute. (2) The Committee shall consist of—</p>	<p>The association should be involved to ensure that there is fairness in the proceedings</p>
<p>Section 25(2)</p> <p>(2) The Committee shall consist of— (a) a Chairperson appointed by the Council as per the First Schedule who shall be a qualified nutritionist or dietician with at least ten years' experience; (b) an advocate of the High Court with at least seven years' experience appointed</p>	<p>Delete and substitute therefor the following subsection -</p> <p>(2) The Disciplinary Committee shall consist of— (a) a chairperson who shall be an advocate of the High Court of not less than eight years standing and nominated by the Law Society of Kenya; (b) a vice-chairperson who shall be an advocate of the High Court of not less than eight years standing and nominated by the Law Society of Kenya; (c) one member who shall be qualified nutritionist or dieticians and who is not involved in any other function either as a member of the Council or any committee of Council; and</p>	<p>(a) a chairperson who shall be an advocate of the High Court of Kenya of not less</p>	<p>The amendment serves to provide with certainty that the Disciplinary Committee established under the Act is the</p>

<p>by the Council;</p> <p>(c) the Chairperson of the Registration Committee;</p> <p>(d) two members who shall be qualified nutritionists or dieticians with at least five years' experience elected by the Council; and</p> <p>(e) the Chairperson of the Accreditation Board.</p>	<p>(d) Chief Executive Officer of the institute as an ex-officio member.</p>	<p>than eight years standing and nominated by the State Law office;</p> <p>(b) a Vice-Chairperson who shall be an advocate of the High Court of Kenya of not less than eight years standing and nominated by the Law Society of Kenya;</p> <p>(c) two members who shall be qualified nutritionists/dieticians nominated by Nutrition Association of Kenya and Kenya Community Nutrition Association who are not involved in any other function either as a member of Council or a Committee of Council.</p>	<p>Disciplinary Committee of the Kenya Nutritionist and Dieticians Institute.</p>
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<p>Section 25-new subsections</p>	<p>Insert the following new subsections immediately after subsection (2) -</p> <p>(2A) The quorum for the meetings of the Disciplinary Committee shall be four which shall include at least the chairperson or vice-chairperson.</p> <p>(2B) The members of the Disciplinary Committee shall be paid such allowances as may from time to time be determined by the Salary and Remuneration Commission.</p>		<p>The amendment provides for the quorum and payment of salaries and benefits to the members of the Disciplinary Committee. The new subsection (2) provides that the composition of the Disciplinary Committee shall be 4 members including the CEO as the ex officio member. It is however not possible to set the quorum of the committee at 4 members.</p>
<p>Section 25(3)</p> <p>(3) The chief executive officer of the Institute shall be the Secretary of the Disciplinary Committee but shall not have voting power.</p>	<p>Delete the words "chief executive officer" and substitute therefor the words "Corporation Secretary".</p>		<p>The amendment provides that the Corporation Secretary appointed under the new section 9A shall be the secretary to the Committee.</p>
<p>Section 25-new subsection</p>	<p>Insert the following subsection immediately after subsection (5) -</p> <p>(6) The Disciplinary Committee shall develop their Standard Operating Procedures which shall be adopted by the instate for proper discharge of duties.</p>		
<p>Section 27(a)</p> <p>Funds of the Institute</p> <p>The funds of the Institute shall comprise—</p> <p>(a) such moneys as may accrue to or vest in the</p>	<p>Insert the words "or under any other written law" immediately after the word "Act".</p>		<p>The amendment expands the scope of statutes in respect of which the Institute's funds may comprise.</p>

<p>Institute in the course of the exercise of its powers or performance of its functions under this Act;</p> <p>(b) all moneys from any other source provided for, donated or lent to the Institute; and</p>			
<p>Section 27(c)</p> <p>(c) such proportion of the fees charged by the Accreditation Board under section 13(c) as the Council may determine.</p>	<p>Delete.</p>		<p>The amendment removes the fees charged by the Accreditation Board as a source of funds since the Accreditation Board is proposed to be abolished by the deletion of section 12.</p>
<p>New section</p>	<p>Insert the following new section immediately after section 27 -</p> <p>Establishment of General Fund.</p> <p>27A. (1) There is established a Fund of the Institute to be known as the General Fund.</p> <p>(2) The Fund shall vest in the Institute and shall be administered by the Council through the Chief Executive Officer.</p> <p>(3) The Fund shall consist of -</p> <p>(a) all monies received as subventions, grants or donations to the Fund;</p>		<p>The amendment establishes the fund of the Institute to be administered by the Council.</p>

	<p>(b) monies earned or arising from any investment of the Fund;</p> <p>(c) foreign aid and assistance from bilateral and multilateral agencies; and</p> <p>(d) all other sums which may, in any manner become lawfully payable to, received by or vested in the Institute relating to any matter incidental to its duties and functions under this Act.</p>		
<p>Section 30 Estimates of revenue and expenditure Before the commencement of each financial year, the Institute shall cause to be prepared estimates of revenue and expenditure of the Institute for the financial year concerned and in particular, shall provide for—</p> <p>(a) the payment of salaries, allowances and other changes in respect of the staff of the Institute;</p> <p>(b) the payment of pensions, gratuity, and other changes in respect of retirement benefits which are paid out of the funds of the Institute;</p>	<p>Delete and substitute therefor the following section -</p> <p>Annual estimates.</p> <p style="text-align: center;">30. (1) The annual estimates of the Institute shall provide for -</p> <p>(a) the payment of the salaries, allowances and other charges in respect of the members of the Council, the Chief Executive Officer, the Corporation Secretary and the staff of the Institute;</p> <p>(b) the payment of pensions, gratuities and other charges in respect of the members of the Council, the Chief Executive Officer, the Corporation Secretary and the staff of the Institute;</p> <p>(c) the proper maintenance of the premises of the Institute;</p> <p>(d) the maintenance, repair and</p>		<p>The amendment specifies the expenditures which shall be termed as the annual estimates of the Institute.</p> <p>The proposed new subsections (2), (3) and (4) are however a duplication of the existing section 31 of the Act.</p>

<p>and the acquisition, maintenance, repair, and replacement of the equipment and other movable properties of the Institute.</p>	<p>replacement of the equipment and other property of the Institute; and</p> <p>(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 Institute may deem appropriate.</p> <p>(2) The annual estimates shall be approved by the Institute before the commencement of the financial year to which they relate:</p> <p>Provided that the amounts in estimates shall not be increased before the prior consent of the Institute.</p> <p>(3) The Institute shall keep all proper books and records of accounts of the income, expenditure, assets and liabilities of the Institute.</p> <p>(4) Within a period of four months after the end of a financial year, the Council shall submit to the members of the Institute at an Annual General Meeting or Special General Meeting convened for that purpose the audited accounts of the Institute together with -</p>		
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	<p>(a) a statement of the income and expenditure of the Institute for that year; and</p> <p>(b) a statement of the assets and liabilities of the Institute as at the last day of that year.</p>		
<p>Section 38</p> <p>Regulations</p> <p>The Institute may, with the approval of the Minister, make regulations generally for the better carrying out of the provisions of this Act, and without prejudice to the generality of the foregoing, may make regulations for—</p> <p>(a) the form and method of keeping the registers and records under this Act;</p> <p>(b) the conditions of admission to the registers and of the issue of licences;</p> <p>(c) the manner in which the training of the persons for whom provision is made in this Act is regulated;</p> <p>(d) the subject matter of training courses and examinations to be conducted by the Institute;</p> <p>(e) the conditions for admission for entry into training courses and</p>	<p>Insert the following paragraph after paragraph (g)—</p> <p>(h) any other matter that may be necessary for the proper administration of the Act.</p>		<p>The amendment introduces a general requirement that gives the Cabinet Secretary the power to make regulations in respect of any other matter that may not be covered in the preceding paragraphs.</p>

<p>examinations to be conducted by the Institute;</p> <p>(f) the standards and conditions of professional practice of persons registered or licensed under this Act; and</p> <p>(g) the fees payable in respect of examinations registration, issue of licenses, and in respect of other matters under this Act.</p>			
<p>Section 39</p> <p>Transitional provisions</p> <p>The transitional provisions set out in the Second Schedule shall apply upon the commencement of this Act.</p>	<p>Delete.</p>		<p>This deletion is necessary since the timeline for the operation of the transitional provisions has since lapsed. (One year from the date of enactment of the Act)</p>
<p>First Schedule</p>	<p>Delete and substitute therefor the following Schedule -</p> <p>FIRST SCHEDULE [Section 5(7).]</p> <p>MEETINGS OF THE INSTITUTE</p> <p>1. (1) Annual General Meeting of the Institute shall be convened by the Council within the first quarter of every financial year by giving every professional of the Institute in good standing a written notice— (a) stating the place, where and the day and hour when the</p>		<p>The amendment replaces the requirement in paragraph 4(2)(a) to have 2 members to request for a ballot, and instead provides that a ballot must be requested by at least two-thirds of the members present in a meeting.</p> <p>The amendment also provides for transition for nomination of new members before the expiry of the term of old members.- paragraph 5.</p>

	<p>meeting is to be held; and</p> <p>(b) indicating the business which is proposed to transact at the meeting.</p> <p>(2) Notice of a meeting shall be given not less than fourteen days before the date on which it is to be held to each member of the Institute by posting the notice to the address of the member last known to the Institute, or by handing the notice to the member in person.</p> <p>(3) The validity of any proceedings of the Institute shall not be affected by any failure to comply with the requirement of subparagraph (2) of this paragraph unless it is proved that the failure so to comply in relation to any member was a deliberate failure.</p> <p>2. (1) The chairperson shall preside at all meetings of the institute at which he is present.</p> <p>(2) At a meeting of the Institute at which the chairperson is not present, members shall choose one of the Council members to preside over the meeting.</p> <p>3. (1) Subject to this paragraph, the quorum at a meeting of the Institute is one-third of the members.</p> <p>(2) No business shall be transacted at a meeting of the Institute unless -</p> <p>(a) the business is indicated in the notice of the meeting as business which it is proposed to transact; or</p> <p>(b) in the case of business not so indicated, the meeting decides to transact the business and the person presiding at the meeting agrees such transaction.</p>		<p>The amendment further provides for the conditions for the resignation of the chairperson.</p>
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	<p>(3) Minutes of the proceedings at meetings of the Institute shall be kept in such a manner as the chairperson in his absence the person presiding at a particular meeting, directs.</p> <p>(4) The person presiding at a meeting of the Institute may adjourn the meeting from time to time and from place to place, with the consent of the members.</p> <p>4. (1) Any question arising at a meeting shall be determined by the majority of the members of the Institute voting on the question.</p> <p>(2) Voting on any question shall be by a show of hands unless, before the declaration of the result of the voting on the hands, a ballot is demanded -</p> <p>(a) by the person presiding at the meeting; or</p> <p>(b) by at least two thirds of the members present, in which event the question shall be determined by a ballot taken in such manner as the person presiding at the meeting directs.</p> <p>(3) The person presiding at a meeting of the Institute has a deliberative vote, and, in the event of an equality of votes, also has a casting vote.</p> <p>(4) A declaration by the person presiding at a meeting of the Institute that a resolution has or has not been carried and an entry to that effect in the minutes of the meetings is evidence of that fact</p> <p>5. (1) At least Four months before expiry of the term of Council, an Annual General Meeting or Special General Meeting shall be convened by the council for professionals to nominate three qualified members for possible</p>		
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	<p>appointment of one of them as a chair of the council as follows -</p> <ul style="list-style-type: none"> (a) three persons shall be competitively nominated by professionals through an election and names forwarded by the Cabinet Secretary for appointment; (b) other positions of the council shall be filled as guided by section 5 and regulations; (c) such positions shall be confirmed and minutes taken during Annual General Meeting; (d) for purposes of continuity half of the members of the council shall remain in office for one more term; and (e) retention of half of the council members shall be based on performance evaluation. <p>6. (1) A person who holds the office of Chairperson may resign from the office by writing a letter addressed to the Council.</p> <p>(2) On the advice of the Council, the members of the Institute may appoint a person to act as chairperson during a special general meeting convened for this purpose -</p> <ul style="list-style-type: none"> (a) during a vacancy in the office of Chairperson; or (b) during any period when the Chairperson is for any reason unable to exercise and perform the function of his office. <p>(3) The appointment of a person to act as Chairperson ceases to have effect if -</p> <ul style="list-style-type: none"> (a) made during a vacancy in the office of chairperson, when the vacancy ends by the election of a Chairperson; (b) the person appointed resigns the office in writing to the Council; or 		
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	(c) the Council revokes the appointment under subparagraph (7) of this paragraph.		
<p>Second Schedule</p> <p>SECOND SCHEDULE [Section 39.] TRANSITIONAL PROVISIONS</p> <p>1. The Head of the division of Human Nutrition and Dietetics in the Ministry in liaison with—</p> <p>(a) the Nutrition Association of Kenya;</p> <p>(b) the Kenya Community of Action in Nutrition;</p> <p>(c) the Kenya Community Nutrition Association; and</p> <p>(d) the Clinical Nutrition and Dietetics Association of Kenya,</p> <p>shall within twelve months from the date of the commencement of this Act convene the First Annual General Meeting at which the first members of the Institute shall be elected.</p> <p>2. The head of the Division of Human Nutrition and</p>	Delete.		<p>This deletion is necessary since the timeline for the operation of the transitional provisions has since lapsed. (One year from the date of enactment of the Act)</p>

<p>Dietetics in the Ministry shall chair the meeting referred to in paragraph 1.</p> <p>3. Prior to convening the meeting referred to in paragraph 1, the Head of the Division of Human Nutrition and Dietetics in the Ministry in liaison with the organisation referred to in paragraph 1 shall facilitate the registration of the person carrying on business or holding themselves out as nutritionists and dieticians.</p> <p>4. No person shall be eligible to participate in the election referred to under paragraph (1) unless such person is registered in terms of paragraph 3.</p> <p>5. After the expiry of twelve months after the commencement of the Act no person may carry on business or hold himself/herself out as being a nutritionist or dietician, except in compliance with this Act.</p>			
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THE KENYA MEDICAL SUPPLIES AUTHORITY ACT (NO. 20 OF 2013)

<p>Section 5(1)(a)</p> <p>Board of Directors</p> <p>(1) The management of the Authority shall vest in a Board of Directors which shall comprise of—</p> <p>(a) a non-executive chairperson appointed in accordance with subsection (2);</p>	<p>Delete and substitute therefor the following—</p> <p>“(a) a chairperson appointed by the President”.</p>	<p>The amendment deletes the requirement for the qualifications provided in subsection (2) for the appointment of the chairperson.</p>
<p>Section 5(2)</p> <p>(2) The chairperson shall be competitively recruited and appointed by the President from amongst persons who—</p> <p>(a) have at least a university degree in a relevant discipline;</p> <p>(b) have at least fifteen years experience in matters relating to healthcare or business management;</p> <p>(c) satisfy the requirements of Chapter Six of the Constitution.</p>	<p>Delete.</p>	<p>The amendment deletes the requirement for the qualifications provided in subsection (2) for the appointment of the chairperson.</p>

<p>Section 5(1)(e)</p> <p>(e) four other persons appointed in accordance with subsection (3);</p>	<p>Delete and substitute therefor the following new paragraph-</p> <p>(e) four other persons appointed in accordance with subsection (3); one of whom shall be recommended by the County Governments.</p>	<p>Council of Governors</p> <p>(e) four other persons appointed in accordance with subsection (3); all of whom shall be recommended by the County Governments taking into consideration gender balance, regional balance and requisite technical expertise.</p>	<p>The Boards' function are intergovernmental in nature and therefore the need to restructure its composition to accommodate the interests of the two levels of government adequately.</p>
<p>Section 5(2)</p> <p>(2) The chairperson shall be competitively recruited and appointed by the President from amongst persons who—</p> <p>(a) have at least a university degree in a relevant discipline;</p> <p>(b) have at least fifteen years</p>	<p>Delete the words, "competitively recruited and" appearing in the opening statement.</p>		<p>The amendment introduces the nomination of a person by the county governments.</p> <p>However the words "County Governments" should be replaced with "Council of Governors".</p> <p>The amendment removes the requirement for competitive recruitment of the Chairperson by the President.</p> <p>However this amendment conflicts with the earlier amendment which deletes subsection (20) in its entirety.</p>

<p>experience in matters relating to healthcare or business management;</p> <p>(c) satisfy the requirements of Chapter Six of the Constitution.</p>			
<p>Section 5(3)</p> <p>(3) The persons referred to in subsection (1)(e) shall be competitively recruited and appointed by the Cabinet Secretary from amongst persons who—</p> <p>(a) have at least a university degree in a relevant discipline;</p> <p>(b) have at least ten years experience in management or in the health sector; and</p> <p>(c) satisfy the requirements of chapter six of the Constitution.</p>	<p>Delete and substitute therefor the following new subsection-</p> <p>(3) The persons referred to in subsection (1) (e) shall be appointed by the Cabinet Secretary from amongst persons who -</p> <p>(a) have at least a university degree in a relevant discipline;</p> <p>(b) have at least ten years' experience in management or in the health sector;</p> <p>(c) satisfy the requirements of chapter six of the Constitution; and</p> <p>(d) is one of the three persons who have been recommended by the County Governments.</p>	<p>Council of Governors</p> <p>(3) The persons referred to in subsection (1) (e) shall be appointed by the Cabinet Secretary from amongst persons who have</p> <p>(a) at least a university degree in a relevant discipline;</p> <p>(b) have at least ten years' experience in management or in the health sector;</p> <p>(c) satisfy the requirements of chapter six of the Constitution; and</p> <p>(d) are the four who have been recommended by the County Governments.</p>	<p>The provision of the Cabinet secretary to make the appointments negates the spirit of devolution. Counties should make appointments for their representatives</p> <p>The amendment introduces the requirement to have one person nominated by the county governments.</p>

<p>Section 8(2)(a)</p> <p>(2) A person shall be qualified for appointment under subsection (1) if the person— (a) holds a minimum of a first degree in pharmacy or medicine;</p>	<p>Delete and substitute therefor with the following new paragraph - (a) holds a minimum first degree in Pharmacy, Medicine, Business Management, Finance, Supply Chain Management or any other related field from a recognized University.</p>		<p>The amendment expands the professions from which the CEO may be appointed.</p>
<p>Section 8(3)(b)</p> <p>(3) The Chief Executive Officer shall— (a) be an <i>ex officio</i> member of the Board with no right to vote; (b) be the secretary to the Board; and</p>	<p>Delete.</p>		<p>The amendment removes the CEO as the secretary to the Board.</p>
<p>Section 8(4)</p> <p>(4) The chief executive officer shall, serve for a term of four years and shall be eligible for re-appointment by the Cabinet Secretary for one further term.</p>	<p>Insert the words “upon satisfactory performance” immediately after the word “years”.</p>		<p>The amendment introduces the requirement for the CEO to serve for the full term only upon satisfactory performance.</p>
<p>New section</p>	<p>Insert the following new section immediately after section 9</p>	<p>Corporation Secretary.</p> <p>9A. (1) There shall be Corporation Secretary of the Authority who shall be competitively recruited by the Board</p>	<p>The amendment introduces the position of the corporation secretary who shall be the secretary to the Board.</p>

	<p>and appointed by the Cabinet Secretary and whose terms and conditions of service shall be determined by the Board upon the advice of the Salaries and Remuneration Commission, in the instrument of appointment or otherwise in writing from time to time.</p> <p>(2) The Corporation Secretary shall be the secretary to the Board and shall have the following responsibilities -</p> <ul style="list-style-type: none"> (a) provide guidance to the Board on their duties and responsibilities and on matters of governance; (b) assist the Board in carrying out its work; (c) be the custodian of the seal of the organization and account to the Board for its use; (d) maintain and update the register of conflicts of interest; (e) ensure that Board members are aware of all relevant laws affecting the organization; and (f) facilitate effective communication between the organization and the shareholders. 		
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<p>Section 13(2)</p> <p>Common seal</p> <p>(1) The common seal of the Authority shall be kept in such custody as the Board may direct and shall not be used except on the order of the Board.</p> <p>(2) The affixing of the common seal of the Authority 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.</p>	<p>Delete and substitute therefor the following subsection -</p> <p>(2) The affixing of the common seal of the Authority shall be authenticated by the signature of the Chief Executive Officer and the Corporation Secretary 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 Chief Executive Officer and the Corporation Secretary.</p>		<p>The amendment removes the power to authenticate and sign the affixing of the common seal, from the chairperson to the corporation secretary.</p>
<p>THE COUNSELLORS AND PSYCHOLOGISTS ACT (NO. 14 OF 2014)</p>			
<p>Section 2</p> <p>Interpretation of terms</p>	<p>Delete the definition of the terms "Council", "Secretary" and "Society".</p>	<p>Liz Ndungi Delete proposed amendment</p>	<p>The terms should be retained as contained in the Act. The amendment removes the terms from the Act.</p>

<p>Section 4(1)(b)</p> <p>Composition of the Board</p> <p>(1) The Board shall consist of —</p> <p>(a) a chairperson to be appointed by the Cabinet Secretary;</p> <p>(b) the Principal Secretary in the Ministry for the time being responsible for matters relating to health or his or her nominee;</p>	<p>Delete and substitute therefor the following paragraph -</p> <p>(b) one person who shall be nominated by the Cabinet Secretary from the public sector with knowledge and expertise in health.</p>	<p>Kisii County</p> <p>Counsellors and Psychologists</p> <p>4(1)(a)- Insert masters degree in counseling and psychology for qualification for chairperson of the Board.</p> <p>Lorna Tumbo</p> <p>Delete.</p> <p>Kenya Medical Psychologists Association</p> <p>Include a representative of the Association as a member of the Board.</p> <p>Elizabeth Mwangera</p> <p>Amend to provide that the person should have knowledge and experience in counseling and psychology and not in health.</p>	<ul style="list-style-type: none"> • To ensure that the most qualified candidate is appointed. • The knowledge and expertise is not specified. • The amendment would mean that in the 9 member Board only 2 will be a counselor and a psychologist, which is unlike other Boards whose majority are the members of the profession concerned. <p>The amendment replaces the PS with a person from the public sector.</p>
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<p>Section 4(1)(e)</p> <p>(e) four persons, of whom two shall be counsellors and two shall be psychologists, elected by licensed counsellors and psychologists, in the manner prescribed by the Board, and appointed by the Cabinet Secretary;</p>	<p>Delete and substitute therefor the following paragraph -</p> <p>(e) two persons, one representing counsellors and the other representing psychologists, nominated by registered counsellors and psychologists in the manner prescribed by the Board and appointed by the Cabinet Secretary.</p>	<p>Liz Ndungi</p> <p>Delete.</p> <p>Harendra Patel</p> <p>Delete.</p> <p>Kenya Counselling and Psychological Association</p> <p>Amend to provide that the persons must be elected by registered counselors and psychologists and not nominated.</p>	<ul style="list-style-type: none"> • The Board should have a majority of its members being counselors and psychologists. • Having only one counselor and one psychologist in the Board will limit development in the sector of mental health. • Nomination may not be practical as the Board may give unclear guidelines on the nomination. <p>The amendment reduces the number of persons elected by counsellors and psychologists to the Board, from 4 to 2.</p>
<p>Section 4(1)(f)</p> <p>(f) two persons nominated by the Council;</p>	<p>Delete.</p>		<p>The amendment removes the nominees of the Council from the Board since the amendments propose the abolishment of the Council (deletion of section 19).</p>

<p><u>Section 4(5)- new paragraph</u> (5) A person shall not be appointed as a chairperson of the Board under subsection (1) (a) unless such person- (a) has at least five years experience in counselling or psychology; (b) meets the requirements of Chapter Six of the Constitution.</p>	<p>Insert the following new paragraph immediately after paragraph (a) - (aa) holds a doctorate degree in a relevant field from a university recognized in Kenya.</p>	<p><u>Gicheha Gitau</u> Insert requirement that the doctorate should be specifically in counseling or psychology.</p> <p><u>Stakeholders proposing deletion of amendment</u></p> <ul style="list-style-type: none"> • Lorna Tumbo • Elizabeth Mwongera • Motari Omariba • Kenya Counselling and Psychological Association • Arnold Mbaabuh • Kenya Institute of Business and Counselling Studies • Kenya Counselling and Psychological Association • Counsellors and Psychologists in Nakuru County 	<ul style="list-style-type: none"> • The amendment does not specify the actual field required and may be subject to abuse. • This is discriminatory as there is no other government institution that has set a doctorate qualification for the appointment of a Chairperson to the Board. • Specifying the doctorate degree in counseling or psychology will allow the profession to grow. • A holder of a bachelors' degree would be sufficient <p>The amendment sets a doctorate degree for the qualification for appointment as chairperson of the Board.</p>
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<p>Section 4(6)</p> <p>(6) In appointing the members of the Board under subsection (1) (d), (e), (f) and (g), the Cabinet Secretary shall take into account the gender, regional and other diversities of the people of Kenya.</p>	<p>Delete and substitute therefor the following subsection -</p> <p>(6) The Cabinet Secretary shall, in appointing the members of the Board under subsection (1), shall consider gender and regional balance, and the mix of skills and competencies required for the achievement of the organization's long-term goals.</p>		<p>The amendment provides clarity in respect of all the members of the Board who shall be appointed by the Cabinet Secretary.</p>
<p>Section 6- new paragraph</p>	<p>Insert the words "and standards" immediately after the word "programs" appearing in paragraph (j).</p> <p>Insert the following new paragraph immediately after paragraph (j):</p> <p>(ja) issue guidelines in consultation with the Cabinet Secretary to govern matters related to the practice of counsellors and psychologists.</p>		<p>The amendment increases the functions of the Board.</p>
<p>Section 15</p> <p>Establishment of the Society</p> <p>(1) There is established a Society to be known as the Counsellors and Psychologists Society of Kenya.</p> <p>(2) The Society—</p>	<p>Delete.</p>	<p>Kisii county and Psychologists</p> <p>Delete proposed amendments deleting sections 15-22</p>	<p>Counsellors and psychologists should have an umbrella body to oversee the welfare of members.</p> <ul style="list-style-type: none"> This will weaken the

<p>(a) is a body corporate, capable of suing and being sued in its corporate name;</p> <p>(b) shall have a common seal which shall be kept in such manner as the Council may direct;</p> <p>(c) may borrow, lend or otherwise raise money in such usual manner, including by way of executing securities and guarantees, as it may from time to time determine;</p> <p>(d) may acquire, hold, develop and dispose of movable or immovable property;</p> <p>(e) may acquire, hold and dispose of investments in other enterprises.</p> <p>(3) All courts, judges and other persons acting judicially shall take judicial notice of the seal of the Society affixed to a document and shall presume that it was duly affixed.</p> <p>(4) The provisions of the Third Schedule shall have effect with respect to the Society.</p>		<p>proposing deletion of amendments in sections 15-22</p> <ul style="list-style-type: none"> • Augustine Lambert • Caroline Wanjiru • Catherine Mwati • Lorna Tumbo • Duncan Ogolla • Liz Ndungi • Harendra Patel • Motari Omariba • Mercy Wairimu Beatrice • Oryango • Charles Kerigu • Anastasia Wanjiru • Muriithi • Ngota Ephraem Kenya • Counselling and Psychological Association • Stella Munene • Arnold Mbaabun • Kenya Institute of Business and Counselling Studies • Kenya 	<p>regulation of mental health services.</p> <ul style="list-style-type: none"> • Counselors and psychologists will lack an umbrella body to keep them in check • Scrapping of the professional body regulating counselors and psychologists will lead to cases of unprofessionalism as there will be no regulatory body. • The deletion works against the spirit of standardizing and harmonizing the counseling and psychology profession, thus hampering cohesion and improved service delivery. <p>The amendment abolishes the Counsellors and Psychologists Society.</p>
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<p>Section 16 Membership of the Society Each person who is registered under this Act is a member of the Society.</p>	Delete.	<p>Counselling and Psychological Association</p> <ul style="list-style-type: none"> • Counsellors and Psychologists in Nakuru County 	<p>The amendment abolishes the Counsellors and Psychologists Society.</p>
<p>Section 17 Chairperson of the Society (1) There shall be a chairperson of the Society who shall be elected in the manner provided in the Third Schedule. (2) A member seeking election as chairperson shall be a person who— (a) has been a member of the Society for a continuous period of not less than five years; (b) has served on the Council or its Committees for at least one year; and (c) has not been disqualified under the provisions of the</p>	Delete.		<p>The amendment abolishes the Counsellors and Psychologists Society.</p>

<p>Fourth Schedule.</p>			
<p>Section 18 Functions of the Society The functions of the Society shall be to— (a) establish standards of professional competence and practice amongst members of the Society; (b) protect, assist and educate the public in Kenya in all matters touching, ancillary or incidental to the professions of counselling and psychology; (c) represent, protect and assist members of the professions of counselling and psychology in Kenya in respect of conditions of practice and otherwise; (d) promote the international recognition of the Board and the Society; (e) advise the Board on matters relating to examination standards and policies; (f) carry out any other functions prescribed for it</p>	<p>Delete.</p>		<p>The amendment abolishes the Counsellors and Psychologists Society.</p>

under, any of the other provisions of this Act or under any other written law.

Section 19

The Council of the Society

- (1) The Society shall be governed by a Council to be known as the Council of the Society.
- (2) Subject to this Act, all acts and things done in the name of, or on behalf of, the Society, by the Council or with the authority of the Council shall be deemed to have been done by the Society.
- (3) The Council shall issue standards of professional practice which shall form the basis of practice of counselling and psychology for members of the Society.
- (4) The Council may with the approval of the Cabinet Secretary, issue by-laws, regulations and guidelines to govern matters affecting the operations of the Society and practice by members of the Society.

Delete.

The amendment abolishes the Counsellors and Psychologists Society.

<p>Section 20 Committees of the Council (1) The Council may establish such committees as are necessary for the performance of the functions of the Society and may, subject to the provisions of this Act, delegate powers conferred on it to such committees. (2) The provisions of tire Fourth Schedule shall have effect with respect to the Council.</p>	Delete.		The amendment abolishes the Counsellors and Psychologists Society.
<p>Section 21 Membership of the Council The Council shall consist of a chairperson and ten other members elected every two years in the manner prescribed in the Fourth Schedule.</p>	Delete.		The amendment abolishes the Counsellors and Psychologists Society.
<p>Section 22 Secretary to the Council (1) There shall be a Secretary to the Council who shall be appointed by the Council through an open and competitive process. (2) The Secretary to the</p>	Delete.		The amendment abolishes the Counsellors and Psychologists Society.

<p>Council shall hold and vacate the office of Secretary in accordance with the terms of the instrument of appointment to that office.</p> <p>(3) In addition to the functions which he or she is required to exercise and perform by or under this Act, the Secretary to the Council shall exercise and perform such other functions as the Council may, from time to time, determine.</p>			
<p>Section 23(a)</p> <p>Qualifications for registration</p> <p>(1) A person shall be eligible for registration under this Act as a counsellor or psychologist if the person—</p> <p>(a) is, in the case of a counsellor, the holder of at least a bachelor's degree in counselling from a recognised university;</p>	<p>Delete the expression "at least a bachelor's" and substituting therefor the words "a masters";</p>	<p>Kisii county</p> <p>Counsellors and Psychologists</p> <p>Delete provision on masters requirement and substitute with certificate level.</p>	<p>Registration should start at the minimum certificate level to allow for growth within the profession.</p>
<p>Section 23(b)</p> <p>(b) is, in the case of a psychologist, the holder of at least a bachelor's degree in psychology from a recognised university;</p>	<p>Delete the expression "at least a bachelor's" and substituting therefor the words "a masters".</p>	<p>Stakeholders proposing deletion of amendments:</p> <ul style="list-style-type: none"> • Adonijah Kimanzi • Lawrence Murangiri • Kenya Psychological Association • Florence 	<ul style="list-style-type: none"> • Counselling is a relatively new profession in Kenya therefore not many people may have the masters degree. • The masters degree requirement locks out diploma and degree holders, and will render many people jobless. • Many people will fear the profession owing to its high

		<ul style="list-style-type: none"> • Mwangi • Augustine Lambert • Rose Katunge Matilda • Syombua Lucy Karambu • Kaitha • Waitira Wanjohi • Caroline Wanjiru • Alice Muciri • Magdalene Musau • Evelynne Makena • Jonathan Aramis • David Kimemia • Verah Nekesa • Kamande Muguro • Nyakinyua Gitu • Francis Ndolo • Lilian Mwashuma • Mary Wanjiru • Njoraa • Maggy Sidi • Peter Tonui • Mary Nzwilli • William Sinkela • Joshua Langat • Catherine 	<ul style="list-style-type: none"> • entry level requirement • Leaves a vacuum for young professionals • There is no reasonable justification for raising the requirement to masters level • Universities would be required to have 6 years or more programme for the masters level qualification, and this goes against the current education policy. <p>The amendment changes the education qualification for registration from a bachelors degree to a masters degree.</p>
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			<ul style="list-style-type: none"> • Mwati • Duncan Ogolla • Liz Ndungi • Motari Omariba • Mercy Wairimu • Adah Kaseria • Omedi • Beatrice • Onyango • Winnie Chege • Charles Kerigu • Joyce Ogega • Heram Okoth • Rebecca Njeri Ndungu • Mary Wanjala • Gicheha Gitau • Kenya Medical Psychologists Association • Mercy Samperu • Vespus Sanguli • Morgan • Mwaritama • Amos Masinde • Josephine • Wanjiru • Elizabeth • Mwongera • John Kihato • Joseph Kimani • Samuel Muiruri • William Otieno • Josephine 	
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		<ul style="list-style-type: none"> • Manyuru • Steve Kimathi • Miringu Kuria • Kenya • Counselling and Psychological Association • Stella Munene • Kimathi Kwiriga • Arnold • Mbabuh • Susan Kariuki • Dorah Nicole • Kenya Institute of Business and Counselling Studies • Kenya • Counselling and Psychological Association • Christina Lenjou • Dan Mugera • George Masagara • Grace Maina • Counsellors and Psychologists in Nakuru County 	
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<p>Section 28(1)</p> <p>Licence to practice</p> <p>(1) A person shall not practise as a counsellor or psychologist unless such person has complied with the requirements for continuing education and supervision, and has been issued with a valid practice licence by the Board, in accordance with regulations made under this Act.</p>	<p>Delete and substitute therefor the following subsection -</p> <p>(1) A person shall not practice as a counsellor or psychologist unless such a person has -</p> <p>(a) been registered under the Act;</p> <p>(b) complied with the prescribed requirements for continuing education and supervision; and</p> <p>(c) been issued with a valid practising licence by the Board in accordance with Regulations made under this Act.</p>		<p>The amendment increases the conditions to be met to practice as a counselor.</p>
<p>First Schedule-paragraph 3(5)</p> <p>(5) The quorum for the conduct of the business of the Board shall be seven members.</p>	<p>Delete the word "seven" and substitute therefor the word "five".</p>	<p>Stakeholders proposing deletion of amendment</p> <ul style="list-style-type: none"> • Elizabeth Mwongera • Kenya Institute of Business and Counselling Studies • Counsellors and Psychologists in Nakuru County 	<ul style="list-style-type: none"> • The quorum should be retained at 7 members for effectiveness. • There should be more persons present to give credence to decisions made. <p>The amendment reduces the quorum of the Board from 7 to 5.</p>
<p>Second Schedule</p> <p>SECOND SCHEDULE (s. 12(5)) COMMITTEES OF THE</p>	<p>Delete and substitute therefor the following Schedule -</p> <p>SECOND SCHEDULE (s.12(5))</p>		<p>The amendment specifies the committees to be established by the Board.</p>

<p>BOARD</p> <ol style="list-style-type: none"> 1. The Examination and Registration Committee 2. The Continuing Education Committee 3. The Disciplinary Committee 4. The Finance and Administration Committee 	<p>COMMITTEES OF THE BOARD</p> <p>The Board shall establish an Audit Committee, and a maximum of three other committees, to discharge the following functions: governance; technical matters; risk; strategy; compliance; human resources; and finance.</p>		<p>The deletion is necessary since the proposed deletion of section 15 abolishes the Counsellors and Psychologists Society of Kenya.</p>
<p>PHYSIOTHERAPISTS ACT(NO. 20 OF 2014)</p>			
<p>Section 2 Interpretation of terms</p>	<p>Insert the following new definition in proper alphabetical sequence -</p> <p>“physiotherapy” means the application of physiotherapy knowledge, skill and judgment by a physiotherapist to obtain, regain or maintain optimal health and functional performance and includes but is not limited to -</p> <ol style="list-style-type: none"> (a) the assessment of neuro-musculoskeletal and cardio respiratory, neural and vascular systems and establishment of physiotherapy diagnosis; (b) the development, progression, implementation and evaluation of physiotherapeutic interventions; (c) the education of patients, care providers on matters of health promotion, wellness, disease prevention 		<p>The amendment introduces the definition of a new term as used in the Act.</p>

	<p>and rehabilitation givers, students and other health service.</p> <p>(d) the manual therapy treatment techniques including soft tissue manipulation, proprioceptive neuromuscular facilitation, manual lymphedema drainage and muscle relaxation techniques;</p> <p>(e) the spinal and peripheral joints mobilization and manual manipulation;</p> <p>(f) work-place and modifications, prescription, fabrication, modification and application of braces, splints, taping, mobility aids or seating equipment;</p> <p>(g) sports and physical activity pre-participation screening and assessment, sports injury prevention, treatment and rehabilitation. hydrotherapy, electrotherapy and use of mechanical, radiant or thermal energy;</p> <p>(h) the ergonomic evaluation, modification, education, assessment and categorization of disability and counseling;</p> <p>(i) tracheal suctioning;</p> <p>(j) the administration of physiotherapy related medication as prescribed by a physician; and</p> <p>(k) performing such other aspects of physiotherapy as may be prescribed in regulations.</p>		
<p>Section 4(2)(e)</p> <p>Functions of the Council.</p> <p>(1) The object and purpose for which the Council is established is to exercise general supervision and control over the training and practice of physiotherapists in Kenya and to advise the</p>	<p>Delete and substitute therefor the following new subsection</p> <p>(e) in collaboration with the Council for University Education and Technical and Vocational Educational and Training Authority, approve and accredit institutions offering physiotherapy training leading to registration under this Act;</p>		<p>The amendment provides a general guideline on the institutions which may be accredited by the Council.</p>

<p>Government in relation to all aspects thereof.</p> <p>(2) Without prejudice to the generality of subsection (1), the Council shall—</p> <p>(a) prescribe the minimum educational requirements for persons wishing to be registered as physiotherapists under this Act;</p> <p>(b) consider and approve the qualifications of physiotherapists for the purposes of registration under this Act;</p> <p>(c) cause to be maintained a register of all persons registered as physiotherapists in accordance with this Act;</p> <p>(d) prescribe and conduct examinations for purposes of registration under this Act in collaboration with the approved institutions;</p> <p>(e) approve institutions other than those established or accredited under the Universities Act 2012.(No. 42 of 2012), or the Technical and Vocational Education and Training Act 2013, (No. 29 of 2013) for the training of physiotherapists;</p> <p>(f) license the private practice of physiotherapists;</p>			
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<p>(g) establish and maintain a professional code of conduct for all persons registered under this Act;</p> <p>(h) regulate the professional conduct of registered physiotherapists and take such disciplinary measures as may be appropriate to maintain proper professional standards;</p> <p>(i) establish, approve and accredit programs for continuing professional educational programs;</p> <p>(j) cause to be published in the Kenya Gazette every calendar year or such other period as may be prescribed, the names of all registered physiotherapists;</p> <p>(k) perform such other function as may be provided for in this Act or any other written law.</p>			
<p>Section 6(1)(b)</p> <p>Composition of the Council.</p> <p>(1) The Council shall consist of—</p> <p>(a) the chairperson appointed by the Cabinet Secretary from amongst the persons nominated under</p>	<p>Delete and substitute therefor the following paragraph -</p> <p>(b) a person from the Ministry responsible for health with expertise in health appointed by the Cabinet Secretary.</p>		<p>The amendment replaces the PS with a Ministry official in the membership of the Board.</p>

<p>paragraph (e): (b) the Principal Secretary responsible for health or a designated representative not below the level of Chief Physiotherapist;</p>			
<p>Section 6- insertion of new paragraphs</p>	<p>Insert the following new paragraphs immediately after paragraph (d) -</p> <p>(da) Director of Physiotherapy Services in the national government or the designated representative; and (db) a person with financial expertise appointed by the Cabinet Secretary.</p>		<p>The amendment introduces new persons as members of the Council.</p>
<p>Section 13(1) Funds of the Council. (1) The funds of the Council shall comprise of — (a) grants, gifts or donations that the Council 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 Council in the course of the exercise of its powers or the performance of its functions under this Act or under any written law; and</p>	<p>Insert the following new paragraph immediately after paragraph (a) -</p> <p>(aa) funds that may be appropriated by the National Assembly.</p>		<p>The amendment introduces funds appropriated by the National Assembly as a source of funds of the Council.</p>

<p>(c) all monies from any other lawful source provided for or donated or lent to the Council.</p>			
<p>Section 19(1) Approved training institutions. (1) No person being in charge of a training institution in Kenya shall — (a) admit persons for training with a view to qualifying for registration under this Act; (b) conduct a course of training or administer the examination prescribed for the purposes of registration under this Act; or (c) issue any document or statement implying that the holder thereof has undergone a course of training or passed the examinations prescribed by the Council for purposes of registration; unless such institution is established or accredited under the Universities Act, 2012 or the Technical and Vocational Education and Training Act, 2013, or is approved and accredited by</p>	<p>Delete and substitute therefor the following new subsection - (1) The Council shall approve and recognize all training institutions that offer courses in physiotherapy.</p>		<p>The amendment gives the Council the power to approve physiotherapy training institutions.</p>

the Council for that purpose in accordance with this Act.			This amendment moves the previous subsection (1) as the new subsection (1A).
Section 19- new subsection	<p>Insert the following new subsection immediately after subsection (1) -</p> <p>(1A) No person, being in charge of a training institution in Kenya, shall -</p> <p>(a) admit persons for training with a view to qualifying for registration under this Act;</p> <p>(b) conduct a course of training or administer the examination prescribed for the purposes of registration under this Act; or</p> <p>(c) issue any document or statement implying that the holder thereof has undergone a course of training or passed the examinations prescribed by the Council for purposes of registration,</p> <p>unless such institution is established or accredited under the Universities Act, 2012 or the Technical and Vocational Education and Training Act, 2013, and is approved and recognized by the Council for that purpose in accordance with this Act.</p>		
THE HEALTH RECORDS AND INFORMATION MANAGERS ACT (NO. 15 OF 2016)			
Section 2 Interpretation of terms	Delete the words "health records and information management or science" appearing in the definition of the term "health records and information diploma" and substitute therefor the words "health records and information Technology".	Health Records and Information Management Society Delete and substitute therefor the	

	<p>Delete the definition of the term "Manager" and substitute therefor the following definition -</p> <p>"Manager" means a Health Records and Information Technician or Technologist or Officer charged with the responsibilities of managing Health Records and Information for health services.</p> <p>Insert the expression "section 7(3) and" immediately after the words "established by" appearing in the definition of the term "Committee".</p>	<p>following new definitions-</p> <p>"Association" means professional Association for promotion of interests of Health Records Information Managers;</p> <p>"College" means the Kenya Medical Training College established by the Kenya Medical Training College Act, or such other college established by Education Act;</p> <p>"Health Records and Information Diploma " means a diploma in Health records and information management or science or technology issued by College or University</p> <p>Insert the following new definition-</p>	<p>Broad definition consisted intents of the Act</p> <p>It is not the function of the Board to establish Colleges</p>
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		<p>“University” means institution of higher learning established by University Act.</p>	<p>To be consistent with section 20</p> <p>The amendments give more clarity in regards to the interpretation of terms used in the Act.</p>
<p>Section 6(1)(a)</p> <p>Functions of the Board</p> <p>(1) The Board shall—</p> <p>(a) establish and improve standards of all branches of the health records and information managers profession in all their aspects and to safeguard the interests of all managers;</p> <p>(b) establish and improve the standards of professional health records and information management in Kenya;</p> <p>(c) with the approval of the Cabinet Secretary, make provision for the training and instruction for persons seeking registration or enrolment under this Act;</p> <p>(d) with the approval of the Cabinet Secretary, prescribe</p>	<p>Delete the words “and to safeguard the interests of all managers”.</p>	<p>Health Records and Information Management Society</p> <p>Delete paragraph (c).</p> <p>Amend paragraph (d)-</p> <p>In consultation with institutions offering training recommendations to syllabuses of instruction and courses of training for persons seeking registration or enrolment under this act from time to time.</p>	<ul style="list-style-type: none"> • Persons seeking registration have minimum academic and professional Qualification • The Board is a regulator and cannot engage in training it will amount to conflict of interest • Matters to do with curriculum are dynamic Board in its form will not be prescribe syllabuses but do in consultation • Health is a service industry engaging Cabinet Secretary on matters to do with curriculum is seeking rubber stamping of such serious matters

<p>and regulate syllabuses of instruction and courses of training for persons seeking registration or enrolment under this Act;</p> <p>(e) recommend to the Cabinet Secretary institutions to be approved institutions for training of persons seeking registration or enrolment under this Act;</p> <p>(f) with the approval of the Cabinet Secretary, prescribe and conduct examinations for persons seeking registration or enrolment under this Act;</p> <p>(g) have regard to the conduct of persons registered, enrolled or licensed under this Act, and take such disciplinary measures as may be necessary to maintain a proper standard of conduct among such persons;</p>		<p>Amend paragraph (e)- The Board in consultation with relevant Government Regulators will recommend to Cabinet Secretary institutions to train persons seeking registration or enrolment to the Cabinet Secretary</p> <p>Amend paragraph (f)- With the approval of the Cabinet Secretary, Make provision for proficiency examination for persons seeking registration or Enrolment under this act.</p>	<ul style="list-style-type: none"> • Process of assessing and accrediting is rigorous and regulators have put in place systems which the Board Tap in. • Recommend is best suited because some variables can change. • Matters to do with examinations are sensitive, it will be a tall for the board to conduct qualifying examination. • A regulator cannot engage in the Processes of the institutions its regulating should concentrate on the Products hence Proficiency Examination. • Proficiency examination will test the aptitude, knowledge and skills.
<p>Section 7(1)(a)</p> <p>Composition of the Board</p> <p>(1) The Board shall consist of—</p>	<p>Delete and substitute therefor the following paragraph-</p> <p>“(a) the Chairperson appointed by the Cabinet Secretary amongst the persons nominated from the public sector with knowledge and expertise in health nominated under</p>		<p>The amendment shifts the power to appoint the chairperson from the DMS to the CS.</p>

<p>(a) one appointee from the Director of Medical services;</p>	<p>paragraph (g).</p>		
<p>Section 7(1)(b) (b) the Deputy Director Health Records and Information Management, Ministry of Health;</p>	<p>Insert the words "Director or" immediately after the word "the".</p>		<p>The amendment expands the composition of the Board to include either the Director or the Deputy Director</p>
<p>Section 7(1)(c) (c) the Director of technical training in the Ministry of Education for the time being responsible for Higher education;</p>	<p>Delete and substitute therefor the following paragraph - (c) two representatives, one from middle level training colleges and one from universities training managers.</p>		<p>The amendment replaces the Director of Technical Training with 2 representatives.</p>
<p>Section 7(1)(d) (d) one registered Manager, who shall be in private practice, to be nominated by the Board;</p>	<p>Delete and substitute therefor the following paragraph - (d) three registered managers, who shall be competitively and transparently nominated and appointed by the Cabinet Secretary as representatives of - (i) the private sector; (ii) faith-based organisations; and (iii) the Association;</p>		<p>The amendment increases the membership of registered managers in the Board from one to three.</p>

<p>Section 7(1)(e)</p> <p>(e) the Chairperson of the Association;</p>	<p>Delete and substitute therefor the following paragraph -</p> <p>(e) one person, with expertise in financial management or accounting and is a bona-fide member of a professional body regulating the Accountancy profession who is in compliance with the requirements thereof, appointed by the Cabinet Secretary.</p>		<p>The amendment replaces the chairman of the Association with a financial expert.</p>
<p>Section 7(1)(f)</p> <p>(f) the Secretary General of the Association;</p>	<p>Delete and substitute therefor the following paragraph -</p> <p>(f) a person appointed by the Cabinet Secretary.</p>	<p>Health Records and Information Management Society Delete and substitute with a representative of relevant Association(s)</p> <p>Council of Governors (1)(f) Delete and substitute therefor the following paragraph - (f) three other persons appointed the County Governments taking into consideration gender balance, regional balance and requisite technical expertise.</p>	<p>The board is not supposed to adopt an office of a specific association</p> <p>The Boards' function are intergovernmental in nature and therefore the need to restructure its composition to accommodate the interests of the two levels of government adequately.</p> <p>The amendment replaces the Secretary General of the</p>

			Association with a person to be appointed by the Cabinet Secretary.
<p>Section 7(1)(g)</p> <p>(g) two managers, one in public practice and the other in the private practice appointed by the Cabinet Secretary; and</p>	Delete.		The amendment removes the two managers from the membership of the Board.
<p>Section 7(1)(h)</p> <p>(h) one other member co-opted by the Board from time to time whose knowledge and experience is deemed necessary for the better performance of its functions.</p>	Delete.	<p>Health Records and Information Management Society</p> <p>Delete and substitute with a representative from Information Communications Technology Authority(ICTA)</p>	<p>Through Kenya National E-Health Strategy 2011-2017, the Ministry of Health underscores the role of ICT</p> <p>The amendment removes the one member from the Board.</p>
<p>Section 7(3)</p> <p>(3) The Board may appoint functional committees on finance, standards and education, registration and licensing, human resource, discipline and ethics for the effective performance of its functions.</p>	Delete and substitute therefor the following subsection –		The amendment makes it mandatory for the Board to appoint committees to carry out its functions.
<p>(3) The Board shall appoint an audit committee and up to three (3) other committees that shall be dealing with matters of finance, risk, standards and education, registration and licensing, human resource, discipline and ethics for the effective performance of its functions.</p>			

Section 7-new subsection	Insert the following new subsection immediately after subsection (3) - (4) The appointments to the Board shall take into consideration gender and regional balance, and the mix of skills and competencies required for the achievement of the Board's long-term goals.		The amendment introduces the affirmative action principle in the appointments to the Board.
Section 15(1)(a) Persons eligible to be registered (1) A person shall be eligible for registration under this Act as a health records and information manager if the person— (a) is the holder of at least a diploma in health records and information management which is recognised by the Board;	Delete the word “diploma” and substitute therefor the word “certificate”.		The amendment lowers the education level requirement for registration, from a diploma to a certificate.
Section 19(1) Approved training institutions (1) A person, being in charge of a training institution in Kenya shall not— (a) admit persons for training for the purpose of qualifying for registration under this Act; (b) conduct a course of	Delete and substitute therefor the following subsection - (1) A person, being in charge of a training institution in Kenya, shall not - (a) admit persons for training for the purpose of qualifying for registration under this Act; (b) conduct a course of training or administer the examination prescribed for the purposes of registration under this Act; or (c) issue any document or statement implying that the holder thereof has undergone a course of training or	Health Records and Information Management Society Unless such institutions established or accredited Universities Act, 2012 or Kenya Medical Training College Act 2012 or	(i) Kenya Medical Training College (KMTC) cannot approve other government institutions (ii) Technical and Vocational Education and Training Act, 2013 is charged with development and implementation of Technology education in Kenya.

<p>training or administer the examination prescribed for the purposes of registration under this Act; or</p> <p>(c) issue any document or statement implying that the holder thereof has undergone a course of training or passed the examinations prescribed by the Board for purposes of registration;</p> <p>unless the training is to be conducted by the Kenya Medical Training College or an institution approved and accredited by the Kenya Medical Training College or is established or accredited under the Universities Act (No. 42 of 2012).</p>	<p>passed the examinations prescribed by the Board for purposes of registration, unless the training is to be conducted by the Kenya Medical Training College or an institution approved by the Board or is established or accredited under the Universities Act.</p>	<p>Technical and Vocational Education and Training Act, 2013, and is approved and recognized by the Board for the purpose in accordance with this Act .</p>	<p>The amendment introduces the requirement that an institution must be approved by the Board, in addition to those accredited under the Universities Act.</p>
<p>Section 21(3)</p> <p>(3) No person shall, while in charge of a health institution or any Health Records and Information Department in Kenya employ any person who is not registered under this Act as a Manager.</p>	<p>Delete the word "shall" and substitute therefor the word "may".</p>		<p>The amendment replaces the mandatory term "shall" with the discretionary term "may". The amendment however has no effect as the provision is of a prohibitive nature.</p>

<p>Section 24(6)</p> <p>(6) For the purposes of this Act, a Manager shall be deemed to engage in private practice if—</p> <p>(a) he or she practices on his own account and is entitled to receive, for his or her own financial benefit, the entire amount of all fees and charges;</p> <p>(b) he or she practises in partnership with others and is entitled to receive, for his or her own financial benefit, a share of the fees and charges;</p>	<p>Insert the following paragraph immediately after paragraph (b) -</p> <p>(c) the scope of practice entails -</p> <p>(i) consulting in clinical coding;</p> <p>(ii) coding for insurance firms;</p> <p>(iii) capacity building in disease classifications and health information management;</p> <p>(iv) appraisal of medical documentations and audits;</p> <p>(v) medical data analytics and research;</p> <p>(vi) use of e-health applications;</p> <p>(vii) development of strategic documents and policies in health records and information management services;</p> <p>(viii) advice on medical legal issues;</p> <p>(ix) advice on retrieval and disposal of medical records;</p> <p>(x) management of bed bureaus; or</p> <p>(xi) consultancy in administrative statistics and big data analytics.</p>		<p>The amendment introduces new circumstances under which a person shall be deemed to engage in private practice.</p>
<p>CLINICAL OFFICERS (TRAINING, REGISTRATION AND LICENSING) ACT (NO. 20 OF 2017)</p>			
<p>Section 2</p> <p>Interpretation of terms</p>	<p>Insert the following new definition in proper alphabetical sequence –</p> <p>“Kenya Clinical Officers Association” means the Kenya Clinical Officers Association registered by the Registrar of Societies.</p>	<p>Kenya Union of Clinical Officers</p> <p>Insert new definition- “specialist practice” means the practice of clinical medicine</p>	<p>Clinical officers offer specialized services including anesthesia, ophthalmology and cataract surgery, paediatrics, reproductive health among others in all levels of health care provision.</p>

<p>Section 4(1)</p> <p>(1) The Council shall consist of the following persons—</p> <p>(a) the chairperson who shall be elected by the council members from amongst themselves in their first council meeting and appointed by the Cabinet Secretary for health;</p> <p>(b) the Director of Medical Services or his representative;</p> <p>(c) the Chief Clinical officer;</p> <p>(d) a clinical officer elected by members of faculty of Clinical Medicine from Kenya Medical Training College;</p> <p>(e) a clinical officer representing private colleges training clinical officers;</p> <p>(f) a clinical officer representing universities training clinical officers elected amongst the head of department clinical medicine;</p> <p>(g) a member of the Institute of Certified Public</p>	<p>Delete paragraph (e) and substitute therefor the following new paragraph—</p> <p>(e) a clinical officer representing the national executive committee of the Kenya Clinical Officers Association.</p> <p>Delete paragraph (g) and substitute therefor the following new paragraph—</p> <p>(g) a person with financial expertise appointed by the Cabinet Secretary.</p> <p>Insert the following new paragraphs immediately after paragraph (h)—</p> <p>(i) two clinical officers, one in public practice and the other in private practice from each gender nominated by the Cabinet Secretary; and</p> <p>(j) a person with human resource expertise appointed by the Cabinet Secretary.</p>	<p>by offering specialized services or consultancy.</p> <p>Kenya Union of Clinical Officers</p> <p>Delete paragraph (b) providing for the Director of Medical Services and substitute therefor the following new paragraph—</p> <p>“the Director General or a designated representative appointed in writing by the Director General”.</p> <p>4(1)(g)- Amend: replace with “a clinical officer with financial expertise appointed by the Cabinet Secretary”.</p> <p>Delete (i) and (j) and substitute with new paragraph- “three clinical officer, two in public</p>	<p>The amendment introduces the interpretation of the term as used in the Act.</p> <p>This is to bring it into conformity with the Health Act.</p> <p>The Council is purely a professional regulatory body for clinical officers dealing with professional matters.</p> <p>This will make the Council representative and self-regulating because it does not only regulate training but the practice of clinical medicine.</p>
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<p>Accountants of Kenya from the public sector; and (h) the Registrar who shall be an ex-officio member and secretary to the Council.</p>		<p>practice and one in private practice from each gender nominated by the Cabinet Secretary.</p> <p>Kenya Medical Association 4(1)(g)- Delete and replace with: a medical practitioner registered under CAP 253 nominated by the Medical Practitioners and Dentists Council.</p>	<p>Not necessary to have a person with financial expertise since they can be recruited by the Council. Proposing addition of a medical practitioner since the under Sec 10(b) the Council is to collaborate, consult and cooperate with Medical Practitioners and Dentists Council in discharging its functions. Clinical officers' functions in a multidisciplinary environment led by a specialist medical practitioner, and the input of such a practitioner will be important on the Council.</p> <p>The Boards' function are intergovernmental in nature and therefore the need to restructure its composition to accommodate the interests of the two levels of government adequately.</p>
	<p>Council of Governors 4(1) - Insert paragraph (k) immediately after paragraph (j) at least three</p>		

		<p>independent members appointed by the appointed by the County Governments taking into consideration gender balance, regional balance and requisite technical expertise, all of them should come from the Counties</p>	<p>The amendment proposes changes in the membership of the Council.</p>
<p><u>Section 4(5)- new subsections</u></p>	<p>Insert the following new subsection immediately after subsection (4)- (5) The Council shall, at its first sitting, elect a chairperson and vice chairperson from amongst its members. Insert the following new subsection immediately after subsection (6)- (7) A member of the Council other than <i>ex officio</i> member may- (a) by notice in writing addressed to the Cabinet Secretary, resign from office;</p>		<p>The amendment provides for the election of the chairperson of the Council, as well as the circumstances leading to vacancy of office.</p>

	<p>(b) be removed from office by the Cabinet Secretary , if the member-</p> <p>(i) has been absent from three consecutive meetings of the full Council without permission of the chairman;</p> <p>(ii) is convicted of criminal offence and sentenced to imprisonment for a term exceeding six months; or</p> <p>(iii) is incapacitated by physical or mental illness that leads to inability to perform the functions of the office.</p>		
<p>Section 15(1)- new subsections</p> <p>(1) There shall be a Registrar appointed by the Council through a competitive and transparent process, who has served as a clinical officer for a period of not less than ten years.</p>	<p>Insert the following new subsections immediately after subsection (1)-</p> <p>(1A) A person shall be qualified for appointment as Registrar if that person—</p> <p>(a) holds a degree from a university recognized in Kenya; and</p> <p>(b) is registered as a clinical officer under this Act.</p> <p>(1B) The Registrar shall serve a term of four years and shall be eligible for re-appointment for a further and final term of four years.</p>		<p>The amendment introduces the qualifications for appointment as a Registrar.</p>
<p>Section 15(6)</p> <p>The Registrar shall—</p> <p>(a) not later than the 31st March in every year, publish in the Gazette, a list of names, addresses and qualifications of the registered clinical</p>	<p>Delete the word “Gazette” and substitute therefor the words “official Clinical Officers Council website” appearing in paragraph (a).</p>		<p>The amendment removes the requirement to publish the names of registered officers in the Gazette, and instead provides for publication in the Council’s website.</p>

officers; and			
Part IV PROVISIONS RELATING TO PRIVATE PRACTICE	Delete the heading under Part IV and substitute therefor the following new heading- PART IV. PROVISIONS RELATING TO LICENSING AND PRIVATE PRACTICE		The amendment introduces licensing as provisions covered in the Part IV of the Act.
Section 20	Insert the following new subsections immediately after subsection (4)- (5) The Council shall register and license medical centres and medical clinics for private practice by clinical officers. (6) No premises shall be used for the purpose of private practice unless such premises is inspected, registered and licensed by the Council. (7) The initial inspection for licensing shall be conducted by a joint inspection team or any relevant authorized body for the purposes of this Act. (8) The Council shall have power to enter private practice premises at all times, for the purposes of this Act. (9) A clinical officer licensed under this Act may, with respect to patients- (a) examine; (b) diagnose; (c) order laboratory and imaging investigations; (d) prescribe treatment; and (e) perform invasive procedures	Kenya Medical Association 20(9)(e)- Delete it since it's ambiguous and may be interpreted to mean that a clinical officer may perform surgical procedures that are beyond his scope of training and practice.	Sec 20(9)(e) is ambiguous and doesn't add substantial value to the roles of a clinical officer as highlighted in Sec 20(9)(d) The amendment provides for the power of the Council to inspect, register and license premises for private practice.

	as per their scope of training and specialty.		
<p>Section 34</p> <p>The Pharmacy and Poisons Act is amended –</p> <p>(a) in section 35A by deleting the words “The Director of the National Drug Quality Control Laboratory or any member of the Laboratory staff authorized by him” appearing in subsection (5) and substituting therefor the words “The Board or any person authorized in writing by the Board”; and</p> <p>(b) in section 351 by deleting paragraph (b).</p>	Delete.		<p>The deletion removes the proposed amendments to the Pharmacy and Poisons Act that seek to give the powers of the Director of the NOCL to the Board.</p>

5.0 COMMITTEE'S OBSERVATIONS

The Committee made the following observations;

- i) The proposed amendments were presented to align the various Acts with current realities, including the Health Act 2017 and the Constitution as individually stated in the justification under each and assist drive the government's Universal Health Coverage (UHC) agenda.
- ii) The proposed amendments fundamentally affect composition and structure of the Boards of Management and Councils as they may be. This is to align the state agencies to the *Mwongozo* code, the government's policy on management of state corporations.
- iii) The Committee observes that the Health Act 2017 is not fully operationalized and the Ministry should undertake this as a matter of urgency. An audit of the Act and other health related laws should be done to expose any lacuna that may hamper operations in the health sector.
- iv) The Ministry of Health being the custodian of matters health in the country was not entirely consulted on some of the proposed amendments. They even went further to propose further amendments, and sometimes entirely new amendments.
- v) During submissions, the Committee noted instances of discordance between the Ministry and some of its agencies on some proposed amendments. Key of note is that the Ministry in one of the proposed amendments under the Pharmacy and Poisons Act, Section 35, proposed to disband the National Quality Control Laboratory as it exists. This proposed amendment was withdrawn after it was evident the proposal was unilateral.

6.0 COMMITTEE'S RECOMMENDATIONS

The Committee having considered the Bill and the submissions from the stakeholders makes the following recommendations on each of the Sections of each Act;

SCHEDULE

THAT the Schedule to the Bill be amended —

(1) in the proposed amendments to the **Radiation Protection Act, Cap. 243**, by—

- (a) deleting the proposed amendments to section 2;
- (b) deleting the proposed amendments to section 3(2);
- (c) deleting the proposed amendments to section 4;
- (d) deleting the proposed amendments to section 5(1);
- (e) deleting the proposed amendments to section 7;
- (f) deleting the proposed new section 8;
- (g) deleting the proposed amendments to section 12;
- (h) deleting the proposed amendments to section 14(2);
- (i) deleting the proposed amendments to section 15(1);
- (j) deleting the proposed amendments to section 15(2); and
- (k) deleting the proposed amendments to section 18;

(2) in the proposed amendments to the **Pharmacy and Poisons Act, Cap. 244**—

(a) by deleting the proposed amendments to section 2 and substituting therefor the following new amendments—

s. 2 Delete the definition of the term “drug” and substitute therefor the following new definition—

“drug” means any medicine or other substance which has a physiological effect when ingested or otherwise introduced into the body;

Delete the definition of the term “pharmaceutical inspector”;

Delete the definition of the term “Inspector of Drugs” and substitute therefor the following new definition—

“inspector of Drugs” means a person who is competitively recruited by the Board as a pharmaceutical inspector and who holds a minimum of a diploma in pharmacy;

Insert the following definitions in proper alphabetic sequence—

“beauty product” means cosmetics, materials and devices made and sold for the purpose of enhancing the physical attractiveness of users;

“Good Manufacturing Practice” also known as “GMP” means a system for ensuring that products are consistently produced and controlled according to quality standards, and is designed to minimise risks involved in any pharmaceutical production that cannot be eliminated through testing the final product;

“health facility” has the meaning assigned to it in the Health Act;

“pharmaceutical device” includes human and veterinary medicines, medical products, medicinal substances, vaccines, diagnostics, blood products, therapeutic feeds, nutritional formulations, beauty products and related products;

“pharmaceutical equipment” means equipment used in the manufacture and quality control of pharmaceutical products;

“pharmaceutical practitioner” means a person lawfully carrying on the practice of pharmacy;

“pharmaceutical product” means any material or product intended for human or veterinary use presented in its finished dosage or form, that is subject to control by or under this Act;

“pharmaceutical technologist” means a holder of a diploma in pharmacy from a training institution recognised by the Board;

“pharmacist” means a holder of a degree in pharmacy from a training institution recognised by the Board;

“pharmacovigilance” means the practice of monitoring the effects

of medical drugs after they have been licensed for use, especially in order to identify and evaluate previously unreported adverse reactions, and includes the science and activities relating to the detection, assessment, understanding and prevention of adverse effects or any other possible drug related problem;

“post marketing surveillance” means the practice of monitoring the safety and quality of a pharmaceutical drug or medical device after it has been released on the market and is an important part of the science of pharmacovigilance;

“practicing license” means a license issued under Section 9A.

(b) by deleting the proposed amendments to section 3 and substituting therefor the following new amendments—

s. 3 Delete section 3 and substitute therefor the following new section—

Establishment of
the Pharmacy
and Poisons
Board.

3. (1) There is established a Board which shall consist of at least eleven members as follows -

- (a) a Chairperson who shall be appointed by the President and who shall—
 - (i) be a pharmacist of good standing with a degree in pharmacy; and
 - (ii) have at least ten years' experience in the pharmaceutical sector;
- (b) the Director of pharmaceutical services;
- (c) the Principal Secretary in the ministry for the time being responsible for finance or his representative;
- (d) two other persons, not being public officers, nominated by the Pharmaceutical Society of Kenya and appointed by the Cabinet Secretary, of whom one shall be a pharmacist and one shall be a pharmaceutical technologist;
- (e) two pharmaceutical practitioners representing the pharmacy training institutions, of which one shall be a pharmacist and one shall be a

- pharmaceutical technologist;
- (f) three pharmaceutical practitioners nominated by the Pharmaceutical society of Kenya, the Kenya Pharmaceutical Association and appointed by the Cabinet Secretary;
 - (g) the Chief executive officer, who shall be an ex officio member;
 - (h) one medical practitioner nominated by the Kenya Medical Association and appointed by the Cabinet Secretary;

(2) The persons appointed under subsection (1)(f) shall be appointed by the Cabinet Secretary from among members nominated by their various recognized organizations, each of which shall nominate two candidates taking into consideration gender, ethnicity and regional balance.

(3) A person shall not qualify for appointment as a member of the Board under subsection (1)(e) and (f) unless such person is the holder of a minimum of a diploma in the relevant field from an institution recognized in Kenya and has at least five years managerial experience.

(c) in the proposed new section 3B—

- (i) by deleting the words “health products” wherever they appear and substituting therefor the words “pharmaceutical products”;
- (ii) by deleting the words “government and government agencies” appearing in the proposed new subsection (2)(a) and substituting therefor the words “national and county governments”;
- (iii) by deleting the proposed new subsection (3)(f) and substituting therefor the following new subsection—
 - (f) establish or prescribe the different categories of pharmacy business and or the scope of practice of persons registered or enrolled in terms of this Act, or the services or acts which shall for purposes of this Act be deemed to be services or acts specially pertaining to pharmacists or

pharmaceutical technologists, and the conditions under which those services may be provided or the acts which may be performed;

(iv) by deleting the word "private" appearing in the proposed new subsection (3)(h);

(d) by deleting the proposed amendment to section 4(5) and substituting therefor the following new proposed amendment—

s. 4(5) Delete the word "registrar" and substitute therefor the words "Chief Executive Officer".

(e) in the proposed amendments to section 5—

(i) by deleting the word "ten" appearing in the proposed new subsection (4)(d) and substituting therefor the word "fifteen";

(ii) by inserting the word "once" immediately after the word "reappointment" appearing in the proposed new subsection (5);

(f) by deleting the proposed amendment to section 6(1) and substituting therefor the following new proposed amendment—

s. 6 Delete section 6 and substitute therefor the following new section—

Register of pharmaceutical practitioners. 6. The Registrar shall keep a register of pharmaceutical practitioners in the prescribed form.

(g) by inserting the following new amendment immediately after the proposed amendment to section 6(1)—

s. 8(2) Delete subsection (2) and substitute therefor the following new subsection—

"(2) Any person who satisfies the Board that he holds a diploma in pharmacy from any college recognised by the Board in Kenya shall, subject to this Act, be entitled to have his or her name entered in the register.

(h) by inserting the following new amendment immediately after the proposed new amendment to section 8(2)—

New section 9A. (1) The Chief Executive Officer shall issue, in

Practising section 9A. (1) The Chief Executive Officer shall issue, in

license.

accordance with rules made under this Act, a practising license authorizing registered pharmaceutical practitioners to practice as pharmacists or pharmaceutical technologists.

(2) Every practicing license shall expire at the end of the practising year in which it was issued.

(3) The practicing year shall be from 1st January to 31st December.

(4) Any pharmaceutical practitioner who practices without a valid practicing license in line with subsection (1) commits an act of professional misconduct.

Application
for practising
license.

9B. A person wishing to be issued with a practising license under section 9A shall make an application to the Registrar in the prescribed form and such application shall be accompanied by the prescribed fee.

Issue of
practising
license.

9C. (1) Where an application for a practising license is made by a person in accordance with section 9B, the Registrar shall issue a practicing license if satisfied that the person—

- (a) is registered under section 6 of this Act;
- (b) has undertaken continuing professional development in the preceding year as prescribed by the Board; and
- (c) meets such other requirements as may be prescribed.

(2) For the purposes of this Act, a person shall be deemed to engage in the practice of pharmacy if the person—

- (a) engages in, conducts or carries on the dispensing,

manufacture, compounding of any drugs or medicines, or offers any form of pharmaceutical care or pharmaceutical services within Kenya; or
(b) advertises or represents himself or herself by a title, sign, display, declaration, or other item to be a pharmacist or pharmaceutical technologist.

(3) For purposes of this Act, it shall be a requirement for every practising pharmacist and pharmaceutical technologist, practicing in their private capacity, government, faith based institutions, non-governmental organizations, training institutions, research organizations or any other institution, to have a valid practising license.

Refusal to issue or renew a license.

9D. The Board may deny or refuse to issue or renew a license under this Act if it determines after due process, that the applicant has failed to comply with the requirements of this Act or its rules.

Renewal, cancellation and suspension of license.

9E. (1) A pharmacist or pharmaceutical technologist issued with a license under this Act may apply for renewal of the license in the prescribed form at least thirty days before the date of expiry thereof.

(2) A pharmacist or pharmaceutical technologist who fails to renew a license within the prescribed period shall, when applying for a renewal, be required to pay such late application fee as shall be prescribed.

Continuing professional development.

9F. For purposes of maintaining a level of competence in his or her ongoing practice, every pharmacist and

pharmaceutical technologist shall undertake appropriate Continuing Professional Development as prescribed by the Board.

- (i) by inserting the following new amendment immediately after the proposed new section 9F—

New section Insert the following new section immediately after section 12—

Enquiries 12A. (1) The Board shall establish an Enquiries and
and
Disciplinary Disciplinary Committee which shall enquire into any
Committee. matter arising under section 12 of this Act.

(2) Where on the recommendations of the Enquiries and Disciplinary Committee the Board is satisfied that a pharmacist or pharmaceutical technologist is in breach of any of the terms or conditions of practice prescribed by the Board, the Board may—

- (a) issue the pharmacist or pharmaceutical technologist with a letter of admonishment;
- (b) impose a fine which the Board deems appropriate in the circumstances;
- (c) suspend the registration or enrolment of the pharmacist or pharmaceutical technologist for a specified period not exceeding five years; or
- (d) remove the name of the pharmacist or pharmaceutical technologist from the Register or Roll as may be appropriate.

(3) The Board may order a pharmacist or pharmaceutical technologist to reimburse costs and

expenses incurred in connection with a disciplinary hearing and such costs shall be a civil debt recoverable summarily by the Board.

- (j) in the proposed new subsection (1B) in section 20, by deleting the words “pharmacist or enrolled pharmaceutical technologist” and substituting therefor the words “pharmaceutical practitioner”;
- (k) by deleting the proposed amendments to section 23 and substituting therefor the following new proposed amendments—
 - s. 23 Delete the word “pharmacist” appearing in subsection (1) and substitute therefor the words “pharmaceutical practitioner.

Insert the following new subsection immediately after subsection (1)–

(1B) The following conditions shall apply to a premise license issued under this Act–

- (a) where operations are conducted at more than one location, each branch shall be licensed separately by the Board;
- (b) each pharmacy shall have a pharmacist or pharmaceutical technologist-in-charge as appropriate;
- (c) the license shall be issued subject to a satisfactory inspection of the premise by the Board;
- (d) a community pharmacy license shall only be issued in the name of a pharmacist or pharmaceutical technologist;
- (e) no person shall be licensed for more than one category of premise license;
- (f) no premise shall be licensed for more than one category of premise license; and
- (g) a clinic or hospital pharmacy shall be under the control of a pharmacist or a pharmaceutical technologist of such experience as may be prescribed.

Delete the words “thirty thousand shillings” appearing in subsection (6) and substitute therefor the words “one million shillings”.

(l) in the proposed new section 23A, by deleting the words “seize all the stock held and” appearing in subsection (3);

(m) by inserting the following new amendment immediately after the proposed new section 23A—

S. 24 Delete the words “a pharmacist” and substitute therefor the words “pharmaceutical practice”.

(n) by deleting the proposed new section 25A;

(o) by deleting the proposed new section 25B and substituting therefor the following new subsection—

Clinical trials. 25B. (1) A pharmaceutical product shall not be used for clinical trial unless an approval is granted by the Board with the approval of the relevant ethics body.

(2) Any person who intends to commence a clinical trial on a pharmaceutical product shall make an application to the Board in the prescribed form and the application shall be accompanied by the study protocol in the prescribed format and the prescribed fee.

(3) The study protocol submitted under subsection (2) shall include a post-trial access program to ensure access of investigational medicinal substances by participants in a trial before grant of marketing authorization by the Board.

(4) The Board shall prescribe guidelines for evaluation of applications made under subsection (2) to be implemented for accelerated evaluations during emergency situations, epidemics and outbreaks.

(5) A person granted an approval under Section 25B (1), shall put up a robust quality assurance system to ensure that the clinical trial is carried out so as to ensure the integrity of data generated, the safety and well-being of study participants.

(6) The Board shall carry out inspections of the clinical trials so as to ensure compliance of the clinical trials with the prescribed requirements.

(p) in the proposed amendment to section 27, by inserting the following new proposed amendment—

s. 27(4) Delete subsection (4) and substitute therefor the following new subsection—
(4) No license shall be issued or renewed under this section unless the person applying for or holding such license is or has a registered pharmaceutical practitioner in control of the distribution of the poisons and the registered pharmaceutical practitioner is resident in Kenya.

(q) by deleting the proposed amendments to section 35A(5);

(r) by deleting the proposed amendments to section 35D;

(s) by deleting the proposed amendments to section 35E;

(t) by deleting the proposed amendments to section 35F;

(u) by deleting the proposed amendments to section 35G;

(v) by deleting the proposed amendments to section 35H;

(w) by deleting the proposed amendments to section 35I;

(x) by deleting the proposed amendments to section 35J;

(y) by deleting the proposed amendments to section 35K;

(z) by inserting the following new amendment immediately after the proposed amendment to section 35K—

S. 40(4) Delete subsection (4).

(aa) By deleting the proposed amendment to section 44 and substituting therefor the following new amendment—

s.44(1) Insert the following new paragraphs immediately after paragraph (mm)—

(mma) the Standards and practice of pharmacy;

(mmb) pharmacy education and training;

(mmc) continuing professional development for all practicing pharmacists and pharmaceutical technologists;

(mmd) criteria for issuance of pharmaceutical representatives permits;
(mme) pharmacovigilance, post marketing surveillance and General
Manufacturing Practice;

(4) in the proposed amendments to the **Medical Practitioners and Dentists Act, Cap. 253**—

(a) by deleting the proposed amendments to section 2 and substituting therefor the following new proposed amendments—

s. 2 Delete the definition of “Board” and substitute therefor with the following new definition—

“Council” means the Kenya Medical Practitioners and Dentists Council constituted under section 3;

Delete the definition of “register” and substitute therefor with the following new definition -

“register” means the register of medical practitioners, dental practitioners, and health institutions for public and private practice by medical and dental practitioners which the Council is required by section 5 to keep;

Insert the following new definitions in proper alphabetical sequence -

“assessment” means the determination of the suitability for registration under the Act by means of oral or written examination or both”;

“Cabinet Secretary” means the Cabinet Secretary for the time being responsible for matters relating to health;

“community oral health” means the provision of curative, preventive and promotive oral health care”;

“community oral health officer”, means a person who has undergone the prescribed course of training in an approved institution, and holds a diploma, higher diploma or degree in community oral health;

“general practice” means the practice of general medicine or dentistry other than specialist practice as defined in the Act;

“health facility” has the meaning assigned to it in the Health Act;

“health institution” means a facility that is operated or designed to provide in-patient or out-patient treatment, diagnostic or therapeutic interventions, nursing, rehabilitative, palliative, convalescent, preventative or other health service for public and private use by medical and dental practitioners;

“intern” means a person holding a medical or dental degree or its equivalent recognized by the Council or a person who has passed the internship qualifying examination, who is undergoing a prescribed period of internship in a recognized institution;

“internship” means a prescribed period of employment during which a medical or dental graduate works under supervision to fulfil registration requirements;

“internship qualifying examination” means a written or oral examination or both which determines the suitability of foreign trained graduates who holds a degree recognized by the Board to undergo internship”;

“licence” means an annual practicing licence issued under section 12 of this Act;

“pre-registration examination” means a written or oral examination or both which determines the suitability for registration under section 6(3) of the Act”

“professional misconduct” means a serious digression from established or recognized standards or rules of the profession, that includes a breach of such codes of ethics or conduct as may be prescribed for the profession from time to time;

“specialist” means a medical practitioner or dentist who has completed an approved post graduate training programme in a particular field of medicine or dentistry, and who has thereafter gained sufficient experience and demonstrated to the Council’s satisfaction adequate knowledge and skill, in his chosen field;

“specialist practice” means the practice of medicine or dentistry in a specialized field;

(b) in the proposed new section 3A—

(i) by deleting the proposed new subsection (1) and substituting therefor the following new subsection—

(1) The Council shall consist of—

- (a) a chairperson, who shall be appointed by the President, and who shall be a specialist medical or dental practitioner of good standing with at least fifteen years of practice, five of which shall be in a managerial position;
- (b) the Director General for Health or a designated representative;
- (c) four persons appointed by the Cabinet Secretary, nominated as follows—
 - (i) one person who shall be a representative of universities in Kenya which have the power to grant a qualification which is registerable under this Act;
 - (ii) one person who shall be a representative of the Kenya Medical Association;
 - (iii) one person who shall be a representative of Kenya Dental Association; and
 - (iv) one person who shall be a representative of oral health practitioners;
- (d) three persons appointed by the Cabinet Secretary, as follows—
 - (i) one person who shall be nominated by Kenya National Commission on Human Rights;
 - (ii) one person who shall be a representative of the private sector in health; and
 - (iii) one person who shall be a representative of the public nominated by the Council of Governors.
- (e) the Chief Executive Officer who shall be the Registrar and an ex officio member and also the secretary to the Council.

- (ii) by inserting the following new subsection immediately after the proposed new subsection (9)–
- (10) Pursuant to nominations in paragraphs (1) (c) and (d), each organization shall present two nominees one of which will be appointed by the Cabinet Secretary taking into account diversity, gender, disability, skills mix and regional balance.
- (c) in the proposed new section 4A, by deleting the proposed subsection (1) and substituting therefor the following new subsection–
 - (1) The Council shall constitute the following committees—
 - (a) training, assessment, registration and human resources committee;
 - (b) disciplinary and ethics committee whose mandate shall include–
 - (i) conducting inquiries into complaints submitted to it;
 - (ii) regulating professional conduct;
 - (iii) ensuring fitness to practice and operate;
 - (iv) promoting mediation and arbitration between parties; and
 - (v) at its own liberty, recording and adopting mediation agreements or compromise between parties, on the terms agreed;
 - (c) inspections, licensing, finance and general purposes committee; and
 - (d) audit and risk committee.
- (d) in the proposed new section 4C, by inserting the following new subsection immediately after subsection (1)–
 - (1A) A person shall be qualified to be appointed as the Chief Executive Officer if the person-
 - (d) possesses a Master’s degree or its equivalent from a university recognized in Kenya;
 - (e) has at least ten years professional and administrative experience in matters related to health; and
 - (f) meets the requirements of Chapter Six of the Constitution.
- (e) in the proposed amendment to section 6–
 - (i) by inserting the following new paragraph immediately after paragraph (5)(e)–
 - (f) has passed an examination prescribed by the Council;

- (ii) in the closing sentence in subsection (5), by inserting the words “as is prescribed in regulations” immediately after the words “under this Act”;
- (f) by deleting the proposed deletion of section 9(1);
- (g) by inserting the following new amendment in the proposed amendment to section 9(2)–
 - s. 9(2) Delete the word “Board” and substitute therefor the word “Council”.

(h) by deleting the proposed new section 11A and substituting therefor the following new section–

New section Insert the following new section immediately after section 11A–

Recognition of specialist practice. 11B. (1) The Council may recognize a medical or dental practitioner as a specialist in any of the fields under the Act or the rules thereunder.

(2) A medical or dental practitioner shall be recognized as a specialist if the medical or dental practitioner–

(a) is a holder of a post graduate qualification equivalent to masters of medicine or dental surgery awarded after a period of training recognized by the Council; and

(b) has at least two years’ experience after obtaining the post graduate qualification under the supervision of a recognized specialist.

(3) The Council may recognize a medical or dental practitioner as a sub-specialist in any of the fields under the Act or the rules thereunder.

(4) A medical or dental practitioner shall be recognized as a sub-specialist if the medical or dental practitioner–

(a) possesses a basic specialist qualification in his or her discipline;

(b) has at least six months training;

(c) has at least one year experience under the

supervision of a recognized sub-specialist.

- (i) in the proposed amendment to section 12, by deleting the words “of the end” appearing immediately after the words “the end” in the proposed new subsection (6);
- (j) by deleting the proposed amendment to section 16;
- (k) in the proposed amendment to section 22 –
 - (i) in the proposed new subsection (1), by deleting the words “shall be” appearing immediately after the words “or in writing”;
 - (ii) in the proposed new subsection (3), by inserting the word “shillings” immediately after the words “five million”;
 - (iii) in the proposed new subsection (4), by deleting the word “and” appearing immediately after the word “commits” and substituting therefor the word “an”;
 - (iv) in the proposed new subsection (5), by inserting the words “which premises is not licensed as a health institution” immediately after the words “health institution”;
- (l) by deleting the proposed amendment to section 23 and substituting therefor the following new proposed amendments –
 - s. 23 Delete the opening sentence and substitute therefor the following new opening sentence –

The Cabinet Secretary may, after consultation with the Council, make rules generally for the better carrying out of the provisions of this Act, and any such rules may, without prejudice to the generality of the foregoing –
 - Insert the following new paragraphs immediately after paragraph (d) –
 - (e) provide for indemnity for clients against loss or damage arising from claims in respect of any liability incurred by a practitioner or a health institution or the employee of a

practitioner or health institution;

(f) provide for the training, registration, licensing and regulation of community oral health officers; and

(g) provide for the process and criteria for registration and licensing of foreign doctors.

(5) by deleting the proposed amendments to the **Food, Drugs and Chemical Substances Act, Cap. 254;**

(6) in the proposed amendments to the **Nurses Act, Cap. 257**—

(a) by inserting the following new proposed amendment immediately before the proposed amendments to section 2—

s. 1 Insert the words “and Midwives” immediately after the word “Nurses”.

(b) in the proposed amendments to section 2—

(i) by deleting the words “or midwife” appearing in the proposed definition of the term “nurse”;

(ii) in the definition of the term “specialist” by inserting the following new paragraph immediately after paragraph (l)—

(la) nephrology nursing;

(c) by deleting the proposed amendment to section 4 and substituting therefor the following new proposed amendment—

s. 4 Delete and substitute therefor the following new section—

Membership of the Council. 4. (1) The Council shall consist of the following persons appointed by the Cabinet Secretary—

(a) a chairperson who shall;

(i) be a holder of a diploma or Bachelor's degree in nursing from a university recognized in Kenya; and

(ii) have at least ten years' experience in Leadership and Management;

(b) the Director of Nursing Services or a representative appointed in writing by the

- Director of Nursing Services;
- (c) one person nominated by the National Nurses Association of Kenya;
 - (d) one person nominated by other Professional Associations of Kenya representing Nurses and Midwives;
 - (e) one representative of midwives involved in clinical practice;

 - (f) one representative of accredited mid-level institutions involved in the training of nurses and midwives in Kenya;
 - (g) one representative of accredited universities involved in training of nurses and midwives in Kenya;
 - (h) two persons nominated by the Cabinet Secretary to represent the public;
 - (i) the Chief Executive Officer who shall be the Registrar and shall be appointed in accordance to section 11 of this Act and shall be an *ex officio* member of the Council.

(2) Appointments under subsection (1)(h) shall take into consideration gender and regional balance, and the mix of skills and competencies required for the achievement of the organization's long-term goals and notified in the Kenya gazette.

(3) A member appointed under paragraph (1)(b) shall be an *ex officio* member of the Council.

(4) A member of the Council including the chairperson shall be a Kenyan citizen of good professional standing and meet the requirements of chapter six of the Constitution.

(5) A member of the Council appointed under this Act must be a holder of a relevant diploma or degree obtained from a university or institution recognized by the Council.

(6) A member of the Council except the *ex officio* members shall hold office for a term of three years and may be eligible for reappointment for one further term.

(7) There shall be a Corporation Secretary who shall be the Secretary to the Council and who shall be appointed by the Council through a competitive process.

(8) Pursuant to nominations in paragraphs (c), (d), (e), (f) and (g) of subsection 1, each organization shall present two nominees one of whom shall be appointed by the Cabinet Secretary taking into account diversity, gender disability, skill mix and regional balance.

(d) in the proposed new section 4A, by deleting the words “and shall be the secretary to the Board” appearing at the end of the sentence;

(e) in the proposed amendment to section 5(1), by inserting the words “Chapter 6 of” immediately after the words “provisions of” in the proposed new paragraph (c);

(f) by deleting the proposed amendment to section 7(2) and substituting therefor the following new amendment—

s. 7(2) Delete and substitute therefor the following new subsection—

(2) The chairperson may at any time convene a special meeting of the Council and shall do so within fifteen days of a written requisition of the meeting signed by at least five members.

(g) in the proposed amendment to section 9(1), by deleting the proposed amendment to delete the words “nursing commodities” in paragraph (i);

(h) by deleting the proposed amendment to section 10(2);

(i) in the proposed amendment to section 11(1), by inserting the words “or midwife” immediately after the word “nurse” in the proposed new paragraph (a);

(j) by deleting the proposed amendment to section 11(4) and substituting therefor the following new amendment—

s.11(4) Delete the word “may” appearing in subsection (4) and substitute therefor the word “shall”.

(k) by deleting the proposed amendment to section 11(5) and substituting therefor the following new amendment—

s. 11(5) Delete subsection (5) and substitute therefor the following new subsection—

(5) The officers appointed under this section shall be paid such remuneration and allowances as the Council may from time to time determine.

(l) by deleting the proposed amendment to section 12 and substituting therefor the following new amendment—

s. 12 Delete and substitute therefor the following new section—

Registers to be kept. 12. (1) The Registrar shall compile and keep a register of nurses and midwives in the prescribed form.

(2) Every person eligible to be registered as a nurse or midwife may apply in the prescribed form to the Registrar for registration and every such application shall be accompanied by the prescribed fee.

(3) Subject to payment of a retention fee, there shall be entered and maintained in the appropriate register the name and address of every person entitled to be registered under this Act together with his or her professional qualifications and such other particulars as may be prescribed by the Council.

(4) Every person registered under this Act who has obtained a higher degree or qualification other than the qualification in respect of which he has been registered, shall be entitled to have that higher degree or additional qualification inserted in the register in substitution for or in addition to the qualification previously registered, upon paying the prescribed fee.

(m) by deleting the proposed amendments to section 17 and substituting therefor the following new proposed amendment—

s. 17 Delete and substitute therefor the following new section—

Private practice. 17. (1) A person may engage in private practice as a nurse or a midwife if that person is—

- (h) a citizen of Kenya or a foreign national;
- (i) registered and licensed to practice in Kenya;
- (j) holder of a valid practicing license issued under this Act;
- (k) of professional good standing, as may be prescribed by the Council;
- (l) has paid the fee as prescribed by the Council;
- (m) meets such other requirements as may be prescribed by the Council; and
- (n) a holder of such other nurse or midwifery qualification as may be prescribed.

(2) A person is not qualified to operate a clinic in community nursing or midwifery services as a private practitioner unless such person has at least 3 years post qualification experience in community nursing or midwifery and is in active practice in Kenya.

(3) Despite the provisions of sub sections (1) and (2), a person is not qualified to operate a nursing home, maternity home or a nursing and maternity home as a private practitioner unless such person has been in active practice for at least 5 years in Kenya.

(4) If a license is due for renewal and the licensee has not made an application within the thirty days from the date of expiry, the licensee shall not engage in private practice until a renewal license is issued.

(5) An application to engage in private practice or renewal shall be made to the Council in the prescribed form, accompanied with the prescribed fee.

(6) A person who has made an application to engage in private practice shall be issued with such license by the Council upon satisfying such requirements for issuance with a licence under this Act.

(7) A practising certificate shall be valid from the date on which it is issued and shall expire on the thirtieth day of December of every year unless its holder ceases to be a registered person under this Act.

(8) A person who contravenes the provisions of this section commits an offence and is liable upon conviction, to a fine not exceeding one million shillings or to imprisonment for a term not exceeding one year, or both.

(n) by deleting the proposed amendment to paragraph 2(2) of the Schedule.

(7) in the proposed amendments to the **Kenya Medical Training College Act, Cap. 261**—

(a) in the proposed amendments to section 2, by deleting the words “in charge of” appearing in the definition of the term “Cabinet Secretary” and substituting therefor the words “responsible for”;

(b) by deleting the proposed amendment to section 4(2) and substituting therefor the following new proposed amendment—

s. 4(2) Delete and substitute therefor the following new subsection—

The common seal of the College shall be kept in the custody of the Corporation Secretary and shall be authenticated by the Chief Executive Officer.

(c) by inserting the following new amendment immediately after the proposed amendment to section 7(b)—

(c) Delete the words “constituent training centre” and substitute therefor the word “campus”

(d) by inserting the following new amendment immediately after the proposed amendment to section 7(d)–

(e) Delete the word “Board” and substitute therefor the word “Council”

(e) in the proposed amendment to section 8(1)–

(i) in the opening sentence, by inserting the words “who shall be the Managing Director and the Secretary to the Board” immediately after the words “Chief Executive Officer”;

(ii) in the proposed new paragraph (a), by inserting the word “masters” immediately after the words “hold a”;

(f) in the proposed amendment to section 8(3), by inserting the words “business development and” immediately before the word “resource” appearing in the proposed new paragraph (d);

(g) by deleting the proposed amendment to section 8(4) and substituting therefor the following new amendment–

s. 8(4) Delete and substitute therefor the following new subsection–

(4) The Chief Executive Officer shall hold office for a term of four years and shall be eligible for reappointment for one further term of four years subject to satisfactory performance of duties.

(h) by deleting the proposed amendment to section 8(5) and substituting therefor the following new amendment–

s. 8(5) Delete and substitute therefor the following new subsection–

(5) There shall be a Corporation Secretary to the Board who shall be appointed by the Board, on such terms and conditions of service as the Board may determine.

(i) by deleting the proposed amendment to section 9(1) and substituting therefor the following new amendment–

s. 9(1) Delete and substitute therefor the following new subsection–

9(1) The Board shall comprise the following

- (a) a chairperson appointed by the President who shall—
 - (i) have a minimum of a bachelors' degree in a relevant field from a university recognised by the Board; and
 - (ii) have at least five years' experience in leadership and management;
- (b) the Chief Executive Officer who shall be an ex-officio member;
- (c) the Principal Secretary in the Ministry for the time being responsible for health or their designated representative;
- (d) the Principal Secretary in the Ministry for the time being responsible for national treasury or their designated representative
- (e) the Director General of Health or their designated representative;
- (f) three independent members appointed by the Cabinet Secretary taking into consideration gender balance, regional balance and skills mix; and
- (g) one person nominated by the Council of Governors taking into consideration technical expertise.

(j) in the proposed new subsections in section 9, by deleting the word "chairman" wherever it appears and substituting therefor the word "chairperson";

(k) by deleting the proposed amendment to section 9(3) and substituting therefor the following new amendment—

s. 9(3) Delete and substitute therefor the following new subsection—

(3) The office of a member of the Board of Directors shall become vacant—

(a) if, not being an ex officio member—

(i) he resigns from office by writing to the appointing authority;

(ii) he is convicted of an offence and sentenced to imprisonment for a term exceeding six months without the option of a fine;

(iii) he is absent, without permission of the Board of management, from three consecutive meetings;

(b) if the Board of Management is satisfied that such member is, by reason of physical or mental infirmity, unable to exercise the functions of his office;

(c) upon death;

- (d) upon adjudication of bankruptcy by a court of competent jurisdiction;
- (e) upon conviction of an offence related to fraud; or
- (f) upon the conviction for offence under this Act.

(l) by deleting the proposed new section 9A;

(m) in the proposed amendment to section 10(2)–

(i) by deleting the word “Board” appearing in the proposed new paragraph (f) and substituting therefor the word “Council”;

(ii) in the proposed new paragraph (g), by inserting the words “in consultation with the Cabinet Secretary” immediately after the word “College”;

(n) in the proposed amendment to section 11–

(i) in the proposed new paragraph (1)(b), by deleting the word “the” and substituting therefor the word “four”;

(ii) by deleting the proposed new paragraph (1)(c) and substituting therefor the following new paragraph–

(c) one head of the faculties of the College appointed by the Board;

(iii) by deleting the proposed new paragraph (1)(d) and substituting therefor the following new paragraph–

(d) one head of each campus appointed by the Board;

(iv) by deleting the proposed new subsection (3) and substituting therefor the following new subsection–

(3) Notwithstanding any other provision of this Act, the Board of Directors shall not initiate any action in respect of any of the matters mentioned in subsection (2) (a), (b) or (c), except upon receipt of a report or proposal of the Academic Council thereunder and except in consultation with the Academic Council.

(o) in the proposed amendment to section 14(1), by deleting the word “may” and substituting therefor the word “shall”;

(p) by deleting the proposed amendment to section 14(2) and substituting therefor the following new amendment–

s. 14(2) Delete and substitute therefor the following new subsection—

(2) In the event of the incapacity of the Chief Executive Officer, the functions of the Chief Executive Officer shall, during the incapacity, be performed by a Deputy Director of the College appointed for that purpose by the Board of Directors.

(q) by deleting the proposed amendment to section 16(1);

(r) in the proposed amendment to section 17(4), by deleting the words “a college” appearing in the proposed new subsection (5) and substituting therefor the words “the College”;

(s) by deleting the proposed amendment to section 19(2) and substituting therefor the following new amendment—

s. 19(2) Delete and substitute therefor the following new subsection—

(2) Notwithstanding subsection (1), the Board of Directors shall not make, amend or revoke any rules or regulations relating to the functions and privileges of the Chief Executive Officer or the Academic Council without first consulting with the Academic Council.

(t) by deleting the proposed amendments to section 20(2) and substituting therefor the following new amendment—

s. Delete and substitute therefor the following new subsection—

20(2) (2) Any person who, except with the written consent of the Board of Directors, uses the words “Kenya Medical Training College” in furtherance of, or as, or in connection with, any advertisement for any trade, business, calling or profession commits an offence and shall be liable on conviction to a fine not exceeding five hundred thousand shillings or to imprisonment for a term not exceeding two years or to both.

(8) in the proposed amendments to the **Narcotic Drugs and Psychotropic Substances Act, No. 4 of 1994**, by deleting the proposed deletion of section 16;

(9) in the proposed amendments to the **Nutritionists and Dieticians Act, No. 18 of 2007**—

(a) in the proposed amendment to section 2—

(i) by inserting the words “records of” immediately after the word “keeping” in the definition of the term “indexing”;

(ii) in the definition of the term “internship”, by deleting the expression “specialized are” and substituting therefor the words “a specialized area”;

(b) in the proposed amendment to section 3, by deleting the proposed new subsection (2) and substituting therefor the following new subsection—

(2) Notwithstanding any other provisions of this Act, a person registered and licensed under this Act shall engage in private practice only if he holds a diploma or a degree and has completed one-year internship or has a minimum three years’ experience in nutrition and dietetics.

(c) by deleting the proposed amendment to section 5(2) and substituting therefor the following new amendment—

s. 5(2) Delete and substitute therefor the following new subsection—

(2) The Council shall consist of -

- (j) a chairperson who shall be appointed by the Cabinet Secretary, who shall be a holder of, in the minimum, a bachelors’ degree in nutrition or dietetics with at least five years of professional experience after the first degree of which two years shall be at leadership and managerial level;
- (k) one qualified nutritionist or dietician professional with a minimum of a diploma in good standing from private practice who shall be appointed by the Cabinet Secretary;
- (l) the Director of Nutrition and Dietetics Services in the Ministry responsible for health or their designated representative;
- (m) one representative of the Consumers Federation of Kenya, who shall be a holder of at least a Bachelors’ degree;
- (n) one representative of faculties teaching nutrition and dietetics at public universities who shall be competitively sourced and who shall be a holder of at least a Masters’ degree;
- (o) one representative from public and private middle level colleges, offering courses in nutrition or dietetics;
- (p) the Director General for health or their designated representative;

- (q) one member with technical knowledge and competencies on finance who shall be appointed by the Cabinet Secretary;
- (r) the Chief Executive Officer as an ex-officio member; and
- (s) two persons appointed by the Council of Governors with a minimum of diploma, and who shall be persons employed by the county governments.

(d) by deleting the proposed new subsections in section 5 and substituting therefor the following new amendment –

New Insert the following new subsections immediately after subsection subsections (4)–

(5) Pursuant to nominations in paragraphs (d), (e) and (f) of subsection (1), each organization shall present two nominations one of whom will be appointed by the Cabinet Secretary taking into account diversity, gender disability, skill mix and regional balance.

(6) The appointments under subsection (2) shall consider gender, regional and ethnic balance.

(7) The Council shall establish a maximum of four committees to deal with matters of training, registration, finance and human resource, audit and risk policies management for proper administration of the Act, but may establish such other ad hoc committees as may be necessary to carry out the functions of the Council.

(8) The Council shall regulate its own procedures in accordance with the First Schedule.

(e) in the proposed new section 7, by deleting the words “ad hoc”;

(f) in the proposed new section 8, by inserting the words “the Council in consultation with the” immediately after the words “from time to time by”;

(g) in the proposed new section 9–

(i) by deleting the word “appointed” appearing in the proposed new subsection (1) and substituting therefor the word “recruited”;

- (ii) by deleting the word “five” appearing in the proposed new subsection (3) and substituting therefor the word “four”;
- (iii) in the proposed new subsection (4), by deleting the words “and in consultation with the council shall be spokesperson of the Institute”;
- (h) by deleting the proposed deletion of section 12 and substituting therefor the following new amendments—
 - s. 12 Delete the word “Board” wherever it appears and substitute therefor the word “Committee”.
- (i) in the proposed new section 13—
 - (i) by deleting the word “may” appearing in the opening sentence;
 - (ii) by deleting the proposed new paragraph (f) and substituting therefor the following new paragraph—
 - (f) develop regulations for internship programmes for students of nutrition and dietetics during pre-service training;
- (j) by deleting the proposed amendments to section 25(2) and substituting therefor the following new amendments—
 - s. 25(2) Delete paragraph (c) and substitute therefor the following new paragraph—
 - (d) one member of the Accreditation CommitteeDelete the word “Board” appearing in paragraph (e) and substitute therefor the word “Committee”
- (k) in the proposed new subsection (2B) of section 25, by inserting the words “Council in consultation with the” immediately after the words “determined by”;
- (l) in the proposed new subsection (6) of section 25, by deleting the word “instate” and substituting therefor the word “Committee”;
- (m) in the proposed new section 30, by inserting the following new subsection immediately after subsection (4)–

(5) The annual accounts of the Council shall be prepared, audited and reported upon, in accordance with the provisions of Articles 226 and 229 of the Constitution and the law relating to public audit.

(n) by inserting the proposed new amendment immediately after the proposed amendment to section 30—

s. 31 Delete.

(o) in the proposed new First Schedule—

(i) by deleting paragraph 3(2)(b);

(ii) by deleting the word “one” appearing in paragraph 4(2)(b) and substituting therefor the word “two”;

(iii) by deleting the proposed paragraph 5(e);

(10) in the proposed amendments to the **Kenya Medical Supplies Authority Act, No. 20 of 2013**—

(a) by deleting the proposed amendment to paragraph 5(1)(a) and substituting therefor the following new amendment—

s. Delete and substitute therefor the following new paragraph—

5(1)(a) (a) a chairperson appointed by the President and who shall—

(i) have at least a university degree in a relevant discipline;

(ii) have at least fifteen years’ experience in matters relating to healthcare or business management;

(iii) satisfy the requirements of Chapter Six of the Constitution.

(b) in the proposed new paragraph 5(1)(e), by deleting the words “County Governments” and substituting therefor the words “Council of Governors”;

(c) by deleting the proposed amendment to section 5(2);

(d) in the proposed new subsection 5(3)—

(i) by deleting the words “in a relevant discipline” appearing in paragraph (a) and substituting therefor the words “in Pharmacy, Medicine, Business

Management, Finance, Supply Chain Management or any other related field from a recognized University”;

(ii) by deleting the proposed new paragraph (d);

(e) by inserting the following new amendment immediately after the proposed amendment to section 5(3)–

New Insert the following new subsection immediately after subsection (6)–
subsection (7) The persons referred to in subsection (1) (e) shall be appointed by the Cabinet Secretary, taking into account regional balance, gender and skills mix.

(f) by deleting the proposed deletion of paragraph 8(3)(b);

(g) in the proposed new section 9A–

(i) by deleting the words “and appointed by the Cabinet Secretary” appearing in the proposed new subsection (1);

(ii) by deleting the words “shall be the secretary to the Board” appearing in the proposed new subsection (2);

(11) in the proposed amendments to the **Counsellors and Psychologists Act, No. 14 of 2014**–

(a) by inserting the following new amendment immediately after the proposed amendment to section 2–

s. 4(1) Delete and substitute therefor the following new subsection–

(1) The Board shall be composed of–

(a) a chairperson appointed by the Cabinet Secretary who shall have a minimum of a bachelors degree and at least fifteen years’ experience;

(b) the Director General of Health or their designated representative;

(c) the Principal Secretary in the ministry for the time being responsible for matters relating to finance;

(d) two persons, who shall be counsellors or psychologists, representing training institutions appointed by the Cabinet Secretary, of whom–

(i) one shall represent midlevel colleges; and

(ii) one shall represent institutions of higher learning;

- (e) two persons, one representing counsellors and the other representing psychologists, nominated by registered counsellors and psychologists;
- (f) one person from minorities and marginalized groups who shall be a counsellor or a psychologist and shall be nominated by the Cabinet Secretary; and
- (g) the Registrar, who shall be an ex-officio and secretary to the Board.

(b) by deleting the proposed amendment to section 4(1)(b);

(c) by deleting the proposed amendment to section 4(1)(e);

(d) by deleting the proposed amendment to section 4(1)(f);

(e) by deleting the proposed amendment to section 4(5) and substituting therefor the following new amendment –

s. 4(5) Delete the word “five” appearing in paragraph (a) and substitute therefor the word “fifteen”

(f) in the proposed new section 4(6), by deleting the word “shall” appearing immediately after the words “subsection (1)”;

(g) by inserting the following new amendment immediately after the proposed amendment to section 4(6) –

New subsection (6) – Insert the following new subsections immediately after subsection (6) –

(7) Pursuant to nominations in paragraphs (d) and (e) of subsection (1), each organization shall present two nominations one of whom shall be appointed by the Cabinet Secretary.

(8) The members of the Board appointed under paragraphs (d), (e) and (f) of subsection (1) shall hold office for a term of three years and shall be eligible for reappointment in accordance with the procedure set out for one further term.

(a) by inserting the following new amendment immediately after the proposed amendment to section 6—

s. 9(3) Delete and substitute therefor the following new subsection—

(3) The Register shall serve—

- (a) according to terms and conditions determined by the Board;
and
- (b) for a term of four years renewable once subject to satisfactory performance.

(b) in the proposed amendment to section 23(a), by deleting the words “a masters” and substituting therefor the words “a diploma”;

(c) in the proposed amendment to section 23(b), by deleting the words “a masters” and substituting therefor the words “a diploma”;

(d) by deleting the proposed amendment to the Second Schedule and substituting therefor the following new amendment—

Second Delete and substitute therefor the following new Schedule—

Schedule 1. The Board shall establish the following committees for the effective discharge of its functions—

- (a) Examination and Registration Committee
- (b) Continuing Education Committee
- (c) Disciplinary Committee
- (d) Finance and Administration Committee

2. Despite paragraph 1, the Board may establish such other ad hoc committees as may be necessary for the effective carrying out of the functions of the Board.

(e) by inserting the following new amendment immediately after the proposed deletion of the Third Schedule—

Fourth Delete.

Schedule

(12) in the proposed amendments to the **Physiotherapists Act, No. 20 of 2014**–

(a) in the proposed amendment to section 2, by inserting the words “also referred to as physical therapy” immediately after the word “physiotherapy” in the definition of the term “physiotherapy”;

(b) by inserting the following new amendment immediately after the proposed amendment to section 6(1)(b)–

s.6(1)(d) Delete and substitute therefor the following new paragraph–

One person with disability nominated by the National Council for People With Disabilities;

(c) by deleting the proposed new paragraphs (da) and (db);

(d) by inserting the following new amendment immediately before the proposed amendment to section 13(1)–

New subsection 6(2)–

(3) Pursuant to section 6 (1) (e), the Kenya Society of Physiotherapists shall present two nominees from each of the categories given in (i), (ii), (iii) and (iv), one of whom will be appointed by the Cabinet Secretary taking into account diversity, gender and skill mix and regional balance.

(4) The members of the Board appointed under subsections (1) (a) and (e) shall hold office for a term of three years and shall be eligible for reappointment in accordance with the procedure set out in that paragraph for one further term.

(e) by inserting the following new amendment immediately before the proposed amendment to section 13(1)–

s. 10(2) Delete and substitute therefor the following new subsection–

(2) A person shall not be appointed under this section unless such person–

(a) holds a degree in physiotherapy from a university recognized in Kenya and is a Kenyan citizen;

- (b) is registered as a physiotherapist under this Act; and
- (c) at least ten years' post qualification working experience.

(f) by deleting the proposed amendment to section 13(1);

(g) in the proposed amendments to section 19(1)–

- (i) by deleting the proposed new paragraph (d) appearing in the proposed new subsection (1A);

- (ii) by inserting the following new proviso immediately after paragraph (c)–
unless such institution is established under the Kenya Medical Training College Act, established or accredited under the Universities Act, 2012 or the Technical and Vocational Education and Training Act, 2013, and is approved and recognized by the Council for that purpose in accordance with this Act.

(h) by inserting the following new amendment immediately after the proposed amendment to section 19(1)–

- s. Insert the words “and in the official Council website” immediately after 22(3)(a) the words “publish in the Gazette”

(13) in the proposed amendments to the **Health Records and Information Managers Act, No. 15 of 2016**–

(a) in the proposed amendments to section 2–

- (i) by deleting the proposed definition of the term “Manager” and substituting therefor the following new proposed definition–

“Manager” means an officer trained in health records and information and charged with the responsibility of managing health records and information for health services which includes–

- (i) consulting in clinical coding;
- (ii) coding for insurance firms;

- (iii) capacity building in disease classifications and health information management;
- (iv) appraisal of medical documentations and audits;
- (v) medical data analytics and research;
- (vi) use of e-health applications;
- (vii) development of strategic documents and policies in health records and information management services;
- (viii) advice on medical legal issues;
- (ix) advice on retrieval and disposal of medical records;
- (x) management of bed bureaus; or
- (xi) consultancy in administrative statistics and big data analytics.

(ii) by deleting the proposed amendment to the definition of the term “Committee”;

(b) by inserting the following new amendments immediately before the proposed amendment to section 15(1)(a)–

s.6(1) Delete paragraph (d) and substitute therefor the following new paragraph–

(d) in consultation with institutions offering training on health records and information technology, prescribe syllabuses of instruction;

Delete paragraph (e) and substitute therefor the following new paragraph–

(e) recommend to the Cabinet Secretary the institutions to train in health records and information technology;

Delete paragraph (f) and substitute therefor the following new paragraph–

(f) with the approval of the Cabinet Secretary, make provision for proficiency examination for persons seeking registration or enrolment under this Act.

(c) by deleting the proposed amendment to section 7(1)(a) and substituting therefor the following new amendment—

s. Delete and substitute therefor the following new paragraph—

7(1)(a) (a) a chairperson appointed by the Cabinet Secretary amongst persons nominated from the public sector with knowledge and expertise in health and who shall—

- (i) have a minimum of a bachelors degree in a relevant field; and
- (ii) ten years' experience.

(d) by deleting the proposed amendment to section 7(1)(c) and substituting therefor the following new amendment—

s. Delete and substitute therefor the following new paragraph—

7(1)(c) (c) two representatives, one from middle level training colleges and one from universities offering training in health records and information technology.

(a) by deleting the proposed amendment to section 7(1)(d) and substituting therefor the following new amendment—

s. 7(1)(d) Delete and substitute therefor the following new paragraph—

(d) four registered managers, who shall be appointed by the Cabinet Secretary as representatives of—

- (i) the private sector;
- (ii) faith-based organizations;
- (iii) the Association; and
- (iv) one representative from the counties.

(b) by deleting the proposed amendment to section 7(1)(e) and substituting therefor the following new amendment—

s. 7(1)(e) Delete.

(c) by deleting the proposed amendment to section 7(1)(f);

- (d) by deleting the proposed amendment to section 7(1)(h);
- (e) by inserting the following new amendment immediately after the proposed amendment to section 7(1)(h)–
 - s. 7(2) Delete and substitute therefor the following new subsection–
 - (2) The Registrar shall be the Chief Executive Officer and the Secretary to the Board.
- (f) in the proposed amendment to section 7(3), by inserting the words “but may establish such other ad hoc committees as may be necessary for the carrying out of the functions of the Board” immediately after the word “functions”;
- (g) by inserting the following new amendment immediately after the proposed new subsection 7(4)–
 - Section 7- Insert the following new subsection immediately after subsection (4)–
 - new subsection (5) Pursuant to subsections (1) (c), (d) and (e), the organizations shall present two nominations from each of the categories, one of whom shall be appointed by the Cabinet Secretary taking into account gender balance, regional balance and skills mix.
- (h) by inserting the following new amendments immediately before the proposed amendment to section 15(1)(a)–
 - s.9 Delete subsection (1).
- (i) in the proposed amendment to section 19(1), by inserting the words “the Technical and Vocational Education and Training Act” immediately after the words “conducted by” appearing in the closing sentence;
- (j) by deleting the proposed amendment to section 21(3);
- (k) by deleting the proposed amendment to section 24(6);
- (14) in the proposed amendments to the **Clinical Officers (Training, Registration and Licensing) Act, No. 20 of 2017**–

(a) by deleting the proposed amendments to section 4(1) and substituting therefor the following new amendment—

s. 4(1) Delete and substitute therefor the following new subsection—

(1) The Council shall consist of the following persons—

- (a) a chairperson appointed by the President and who shall have a relevant degree from a recognised university and at least ten years' experience;
- (b) the Director General for health or his or her designated representative;
- (c) the Chief Clinical Officer;
- (d) one clinical officer elected by members of faculty of Clinical Medicine from Kenya Medical Training College;
- (e) one clinical officer representing the Kenya Clinical Officers Association who shall be nominated by the Association and appointed by the Cabinet Secretary;
- (f) one clinical officer representing universities training clinical officers elected amongst the teaching staff;
- (g) one person with financial expertise appointed by the Cabinet Secretary;
- (h) the Registrar who shall be an ex-officio member and secretary to the Council;
- (i) two clinical officer's, one in public practice and the other in private practice from each gender nominated by the Cabinet Secretary;
- (j) one person nominated by the Council of Governors; and
- (k) one person representing the public nominated by consumer organisations and appointed by the Cabinet Secretary.

(b) by deleting the proposed new subsection (5) in section 4;

(c) in the proposed amendment to section 15(1), by deleting the proposed new subsection (1A) and substituting therefor the following new subsection—

(1A) A person shall be qualified for appointment as Registrar if that person—

(c) holds a bachelors' degree from a university recognized in Kenya;

(d) has at least fifteen years' experience; and

(e) is registered as a clinical officer under this Act.

(d) by deleting the proposed amendment to section 15(6) and substituting therefor the following new amendment—

s. 15(6)(a) Insert the words “and in the official Council website” immediately after the word “Gazette”

(e) in the proposed amendment to the title to Part IV, by deleting the word “PRIVATE”;

(f) in the proposed amendment to section 20—

(i) by deleting the word “private” appearing in the proposed new subsection (8) and substituting therefor the word “any”;

(ii) by deleting the word “invasive” appearing in subsection (9)(e);

(iii) by deleting the words “and specialty” appearing in the closing sentence in the proposed new subsection (9);

(g) by inserting the following new amendment immediately after the proposed amendment to section 20—

New section Insert the following new section immediately after section 23—

section

Professional
indemnity.

23A. Every clinical officer shall in each year take a professional indemnity cover and every health institution shall in each year insure the health Institution against professional liability of its staff.

