

Approved for tabling *But* SNA  
31/8/16



REPUBLIC OF KENYA



*Paper laid by*  
*Chairman*  
*Department of Health*  
*Committee on Health*  
*Sign: 31/8/16*  
*12:30pm*  
*Meeting*  
*Madh*

THE NATIONAL ASSEMBLY

ELEVENTH PARLIAMENT – FOURTH SESSION 2016

THE DEPARTMENTAL COMMITTEE ON HEALTH

REPORT ON THE CONSIDERATION OF THE SENATE AMENDMENTS TO THE  
HEALTH BILL, 2016

DIRECTORATE OF COMMITTEE'S SERVICES  
CLERK'S CHAMBER  
PARLIAMENT BUILDINGS  
NAIROBI

AUGUST, 2016



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## **CHAIR'S FOREWORD**

The enactment of the Health Bill, 2016 is key to the implementation of the Constitution and the success of provision of health services in a devolved context. The Health Bill seeks to establish a unified Health System to coordinate the inter-relationship between the National Government and County Government health systems to provide for regulation of health care services, health care service providers, health products and health technologies.

The amendments were passed by the Senate on 14<sup>th</sup> July, 2016 and communicated to the National Assembly for consideration on 19<sup>th</sup> July, 2016. The amendments were subsequently committed to the Committee for consideration pursuant to the provisions of Standing Order 41. In considering the amendments, the Committee took cognizant of their Constitutionality, best practices from other jurisdictions and alignment to the Kenya Health Policy 2014-2030. It is on this basis that the Committee submits this report for consideration by the House.

The Committee wishes to register its appreciation to the Offices of the Speaker and the Clerk of the National Assembly and staff for the support accorded to it during its sittings and the execution of its mandate. I also take this opportunity to thank all Members for their patience and dedication to Committee business and to ensure the passage of this key legislation in the Health sector.

It is now my pleasant duty and privilege, on behalf of the departmental Committee on Health to present this report on the Senate amendments to the Health Bill, 2015 to the House and table the report pursuant to Standing Order 216(5) (c).

**Hon. Dr. Racheal Nyamai MP**

## EXECUTIVE SUMMARY

This report presents the findings of the Department Committee on Health on its consideration of the Senate amendments to the Health Bill, 2016.

The Senate passed the Bill with amendments on 14<sup>th</sup> July, 2016 and communicated its decision to the National Assembly for concurrence on the 19<sup>th</sup> July, 2016. The Assembly subsequently committed the amendments to the Committee pursuant to the provisions of the Standing Order 41 and 145 and it's on this basis that the Committee makes this report.

The Committee considered the Senate amendments during its sitting held on Friday 19<sup>th</sup> August, 2016. The Committee's decisions to accept and or reject the amendments were based on the Constitutional requirements, the need to align the law to the National Health Policy 2014-2030 as well as borrowed best practices from jurisdictions with similar experiences.

The Committee has deliberated on the amendments from the Senate and recommends that the House approves and rejects some of the Senate amendments as contained in the report.

## 1.0 PREFACE

### 1.1 Committee Mandate

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

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

## 1.2 Committee Membership

The Committee comprises of the following Members:-

1. **The Hon. Dr. Racheal Nyamai, M.P. (Chairperson)**
2. **The Hon. Dr. Robert Pukose, M.P. (Vice Chairperson)**
3. The Hon. John Nyaga Muchiri, M.P.
4. The Hon. Dr. Dahir D. Mohamed, M.P.
5. The Hon. Kamande Mwangi, M.P.
6. The Hon. David Karithi, M.P.
7. The Hon. Hassan Aden Osman, M.P.
8. The Hon. Raphael Milkau Otaalo, M.P.
9. The Hon. Dr. James Nyikal, M.P.
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11. The Hon. Leonard Sang, M.P.
12. The Hon. Michael Onyura, M.P.
13. The Hon. Paul Koinange, M.P.
14. The Hon. Dr. James Murgor, M.P.
15. The Hon. Robert Mbui, M.P.
16. The Hon. Dr. Enoch Kibunguchy, M.P.
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19. The Hon. Dr. Eseli Simiyu, CBS, M.P.
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22. The Hon. Zipporah Jesang, M.P.
23. The Hon. Dr. James O. Gesami, M.P.
24. The Hon. Stephen M. Mule, M.P.
25. The Hon. Dr. Susan Musyoka, M.P.
26. The Hon. Fred Outa, M.P.
27. The Hon. Dr. Stephen Wachira, M.P.
28. The Hon. Dr. Patrick Musimba, M.P.
29. The Hon. Alfred Sambu, M.P.

### 1.3 Committee Secretariat

- |                                      |              |                                |
|--------------------------------------|--------------|--------------------------------|
| 1. Ms. Esther Nginyo                 | -            | Clerk Assistant III            |
| 2. Mr. Dennis Mogare Ogechi          | -            | Clerk Assistant III            |
| <del>3. Ms. Ruth Mwhaki Gakuya</del> | <del>-</del> | <del>Clerk Assistant III</del> |
| 4. Ms. Sande Marale                  | -            | Research and Policy Analyst    |
| 5. Ms. Marlene Ayiro                 | -            | Legal Counsel                  |
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#### **1.4 Committee Recommendations**

Having considered the Senate amendments to the Health Bill 2016, the Committee recommends that the National Assembly:-

1. **Approves** the Senate amendments to **Clauses 2, 7(3), 12(1), 15(a) (f) (i), 20 (marginal note), 27, 28, 46(4), 49 (2a)**
2. **Rejects** the Senate amendments to **Clauses 5(4), 15(c), 16(2)(a), 17(i)(j), 18, 19(4)(a), 24(a), 25, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 62, 63, 64, 65, 66, 67, 73, 89, 91, First schedule.**
3. **Rejects** the Senate amendments with further amendments to **Clauses 5(3), 20,46 (1f)**

## 2.0 INTRODUCTION

The Health Bill, 2016 was passed by the National Assembly on 30<sup>th</sup> March, 2016 and subsequently forwarded to the Senate for consideration pursuant to provisions of Article 110(4) of the Constitution and Standing Order 142. The Bill was passed by the Senate on 14<sup>th</sup> July, 2016 with amendments and was reverted to the National Assembly for concurrence on Tuesday, 19<sup>th</sup> July, 2016 through a message from the Senate. The Speaker of the National Assembly directed the Committee to table its Report on the amendments made on the Bill by the Senate and not any other part of the Bill for consideration by the House. 2.1 Consideration of the Proposed Senate Amendments to The Health Bill, 2016

The Committee considered the Senate amendments in its Sitting held on Friday 19<sup>th</sup> August, 2016. The Committee's decisions to accept and or reject the amendments were based on the Constitutional requirements, the need to align the law to the National Health Policy 2014-2030 as well as borrowed best practices from jurisdictions with similar experiences.

The following is the analysis of the Senate amendments with the justification and Committee recommendation and reasons for rejection:-

### **CLAUSE 2**

**THAT** Clause 2 of the Bill be amended by:-

- (a) deleting the interpretation of the word "abortion"; and

#### **Senate Justification**

*The term abortion has not been used in the bill and is not necessary to be defined.*

#### **Committee Recommendation**

**The Committee agrees with the proposed amendment to Clause 2 and recommends its approval**

- (b) inserting the following new definition in the proper alphabetical sequence –  
"death" means the permanent lose of capacity for consciousness and the loss of all brainstem functions;

#### **Senate Justification**

**There is need to define the term death which has been used in Clauses 81(1, 2 &3), 84(1b)**

#### **Committee Recommendation**

The Committee agrees with the proposed amendments on Clause 2 and recommends its approval

#### **CLAUSE 5**

**THAT** Clause 5 of the Bill be amended by inserting the following new subsections immediately after subsection (2) —

- (3) The national and county governments shall ensure the provision of free and compulsory —
  - (a) vaccination for children under five years of age; and
  - (b) Maternity care.
- (4) For the purposes of implementing subsection (3), the national government shall in consultation with the respective county government provide conditional grants to county governments

#### **Senate Justification**

The amendment seeks to anchor into legislation provision of free maternity care and ensure provision of funds through conditional grants to cater for the service.

#### **Committee Recommendation**

The Committee agrees with the proposed amendment to clause 5(3) with further amendment to delete the phrase “compulsory”.

The Committee rejects the Senate amendment to clause (5) (4) where does this come from?

#### **Justification**

To legislate for the conditional grants goes against best practice and causes rigidity in law

#### **CLAUSE 7**

**THAT** clause 7 of the Bill be amended by deleting sub-clause (3).

#### **Senate Justification**

The amendment seeks to put the burden of providing emergency treatment on the health facility and not the health provider

**Committee Recommendation**

The Committee agrees with the proposed amendment to Clause 7(3) and recommends its approval.

**CLAUSE 12**

THAT Clause 12(1) of the bill be amended in paragraph (a) by deleting the words “their health status” appearing immediately after the words “on account of” and substituting therefor the words “any of the grounds set in Article 27(4) of the Constitution”.

**Committee Recommendation**

The Committee agrees with the proposed amendment to Clause 12(1) and recommends its approval.

**CLAUSE 15**

THAT Clause 15 of the Bill be amended in sub-clause (1) by –

- (a) inserting the words “ including reproductive health care and the right to emergency treatment” at the end of paragraph (a);
- (b) deleting paragraph (c);
- (c) deleting the words “and implement” appearing after the word “develop” and substituting therefor the word “policy” in paragraph (f); and
- (d) inserting the word “policy” immediately after the words “put in place” in paragraph (i).

**Senate Justification**

These amendments will ensure that the role of the national government is more of policy as health is a devolved function.

**Committee Recommendation**

The Committee agrees with the proposed amendments in Clause (15) (a) (f) (i) and recommends its approval.

The Committee rejects the Senate amendment for Clause (15) (c).

**Justification**

The role of the National Government is to ensure the implementation of the rights to health, enforcing standards and policies including ensuring that Kenya meets the

international health obligations

#### **CLAUSE 16**

**THAT** Clause 16 of the Bill be amended by deleting sub-clause (2) and substituting therefor the following new sub-clause-

(2) The Director-General for health shall be recruited by the Public Service Commission through a competitive process and appointed by the Cabinet Secretary.

Substituting paragraph (a) with a new paragraph “be a health practitioner registered by respective regulatory body;

#### **Senate Justification**

The position of the director-general is not equivalent to that of a cabinet secretary or principal secretary and as such there would be no need to have the director-general vetted by Parliament and appointed by the President. The amendment will make the director-general’s position to be appointed by the cabinet secretary through a competent recruitment exercise carried out by the Public Service Commission.

#### **Committee Recommendation**

The Committee rejects the Senate amendment to Clause 16(2) and paragraph (a)

#### **Justification**

Best practice show that Director General for Health are qualified Medical practitioners. Health is key to a population as all other sectors are dependent on a healthy nation.

#### **CLAUSE 17**

**THAT** Clause 17 of the bill be amended by –

- (a) Deleting paragraph (i) “ provide guidelines for registration, licensing, certification, gazettement of all health facilities
- (b) Deleting paragraph (j)be responsible for internship program for health workers

#### **Committee Recommendation**

The Committee rejects the proposed Senate amendments on Clause 17(i) and (j)

#### **Justification**

The role of the National Government is developing standards, policies and guidelines for registration, licensing, certification, and gazettement. Additionally, internship is part of training. Training and capacity building is a function of the National Government.

## CLAUSE 18

THAT Clause 18 of the Bill be deleted and substituted with the following new clause-

18. For purposes of section 15(1) (b), the Cabinet Secretary shall-

- 
- (a) form directorates to deal with the following matters -
    - (i) medical services;
    - (ii) nursing and allied workers;
    - (iii) pharmaceutical services;
    - (iv) public health; and
    - (v) administrative services;
  - (b) Notwithstanding paragraph (a), form directorates based on policy priority areas in consultation with the Director-General.

### Senate Justification

The amendment compels the Cabinet Secretary to create directorates that deal with key areas within the health sector for better coordination

### Committee Recommendation

The Committee rejects the Senate amendments to Clause 18

### Justification

Creation of Directorates is an administrative issue that does not require legislation. This also introduces rigidity in the law and will therefore mean that whenever the Ministry requires reorganization an amendment to the law will be required. Further the proposed directorates are limiting and are cadre specific.

## CLAUSE 19

THAT Clause 19 of the Bill be amended in sub-clause (4) by deleting paragraph (a) and substituting therefor the following new paragraph-

- (a) be a health practitioner registered by the respective regulatory body

### Committee Recommendation

The Committee rejects the Senate amendment to Clause 19(4) (a)

**Justification**

**For the effective management of the health function in the County, the County Director of Health must be a medical practitioner.**

**CLAUSE 20**

**THAT** clause 20 of the Bill be amended by-

- (a) deleting the introductory phrase and substituting therefor the following new phrase-  
the county government in furtherance of the functions assigned to it under the Fourth Schedule of the Constitution shall be responsible for-
- (b) deleting the marginal note and inserting therefor the following new marginal note-  
duties of county government

**Senate Justification**

**Part 2 of the Fourth Schedule to the Constitution assigns functions to County governments and not departments and as such, the amendment seeks to realign the clause to the Constitution.**

**Committee Recommendation**

**The Committee rejects the Senate Committee to Clause 20 and proposes further amendments to include the phrase “Health” after “of the” and the phrase “in consultation through the established inter-governmental relations mechanisms” immediately after the Constitution.**

**The Committee further accepts the Senate amendment to the marginal notes on Clause 20 and recommends its approval**

**CLAUSE 24**

**THAT** Clause 24 of the Bill be amended by deleting paragraph (a).

**Senate Justification**

**This amendment is necessary after the deletion of classification of health facilities.**

**Committee Recommendation**

**The Committee rejects the Senate amendments to Clause 24(a)**

**Justification**

**The Constitutional role of the National Government is to manage any public health institutions classified as a national referral facility**

## CLAUSE 25

THAT Clause 25 of the Bill be deleted.

### Senate Justification

This clause deletes the classification of health facilities as highlighted in the First Schedule to the Bill. County governments need to be given the freedom to develop health facilities to the highest standards without the fear that these facilities will later be taken up by the National government

### Committee Recommendation

The Committee rejects the Senate amendment to Clause 25

### Justification

The technical classifications are in line with the Health Policy 2014-2030 which provide for the technical classifications as Community, Dispensaries, Health Centre, Primary referral facilities, Secondary referral facilities and Tertiary referral facilities.

## CLAUSE 27

THAT Clause 27(1) of the Bill be amended by inserting the following new paragraph immediately after paragraph (b) –

(c) be a platform for mutual consultation, coordination and collaboration between the national and county governments on all matters related to health

### Committee Recommendation

The Committee agrees with the proposed Senate amendment to Clause 27 and recommends its approval

## CLAUSE 28

THAT Clause 28 of the Bill be amended by deleting sub-clause (2).

### Senate Justification

The amendment is to correct the repletion as 28(2) and 29 deal with the same matter.

### Committee Recommendation

The Committee agreed with the proposed Senate amendment to Clause 28 and recommends its approval

## CLAUSE 30

THAT Clause 30 of the Bill be deleted.

**CLAUSE 31**

THAT Clause 31 of the Bill be deleted.

**CLAUSE 32**

THAT Clause 32 of the Bill be deleted.

**CLAUSE 33**

THAT Clause 33 of the Bill be deleted.

**CLAUSE 34**

THAT Clause 34 of the Bill be deleted.

**CLAUSE 35**

THAT Clause 35 of the Bill be deleted.

**CLAUSE 36**

THAT Clause 36 of the Bill be deleted.

**CLAUSE 37**

THAT Clause 37 of the Bill be deleted.

**CLAUSE 38**

THAT clause 38 of the Bill be deleted.

**CLAUSE 39**

THAT clause 39 of the Bill be deleted.

**CLAUSE 40**

THAT clause 40 of the Bill be deleted.

**CLAUSE 41**

THAT Clause 41 of the Bill be deleted.

**CLAUSE 42**

THAT Clause 42 of the Bill be deleted.

**CLAUSE 43**

THAT Clause 43 of the Bill be deleted.

**CLAUSE 44**

THAT Clause 44 of the Bill be deleted.

**Senate Justification**

Deletion of Clauses 30 to 44, deletes the entire Part V of the Bill, which deals with the establishment of the Kenya Human Resource Advisory Council in order to give the county governments the independence to deal with the health workforce.

**Committee Recommendation**

The Committee rejects the Senate amendments to Clauses 30 – 44

**Justification**

The Health Human Resource Advisory Council was established to address the current gap in the harmonization of the County health workers emerging issues including but not limited to internships, rationalizing of remuneration, transfers, promotions and other staff issues.

**CLAUSE 46**

THAT Clause 46 of the Bill be amended by:-

- (a) deleting sub-clause (1f); and

**Senate Justification**

After deleting the Council at Clause 30, the amendment is necessary as reference had been made to the Council to nominate members to the health professions oversight authority.

**Committee Recommendation**

The Committee rejects the proposed Senate amendment to Clause 46(1f) and amends it to include the phrase “of Governors”.

- (b) deleting sub-clause (4).

**Senate Justification**

As the powers of the Authority are vested in the board, the business and affairs of the board as contained in the second schedule are sufficient. The amendment deletes the repetition.

**Committee Recommendation**

The Committee accepts the proposed Senate amendments to Clause 46 (4) and recommends its approval

**CLAUSE 49**

THAT Clause 49 of the Bill be amended in subsection (2) by deleting paragraph (a) and substituting therefor the following new paragraph :-

(a) is a health practitioner registered b the respective regulatory body

**Committee Recommendation**

The Committee agrees with the proposed Senate amendments to Clause 49(2) (a) and recommends its approval.

**CLAUSE 62**

THAT the Bill be amended by deleting Clause 62

**CLAUSE 63**

THAT the Bill be amended by deleting Clause 63

**CLAUSE 64**

THAT the Bill be amended by deleting Clause 64

**CLAUSE 65**

THAT the Bill be amended by deleting Clause 65

**CLAUSE 66**

THAT the Bill be amended by deleting Clause 66

**Committee Recommendation**

The Committee rejects the Senate amendment to Clauses 62- 66

**Justification**

Clauses 62-66 provide for the establishment by an Act of Parliament a single regulatory body for regulation of health products and health technologies. The Government policy is to separate the regulation of professionals from products and health technologies for efficiency and to improve health services. This is informed by health practices in other Countries like the United States Food and Drugs Authority.

**CLAUSE 67**

**THAT** the Bill be amended by deleting Clause 67

**Committee Recommendation**

**The Committee rejects the Senate amendment to Clause 67**

**Justification**

**This is aimed at standardizing the quality and cost of drugs and medicines procured by all Government facilities at both the National and County Governments**

**CLAUSE 73**

**THAT** the Bill be amended by deleting Clause 73

**Committee Recommendation**

**The Committee rejects the Senate amendment to Clause 73**

**Justification**

**Mental health is a major health issue and its inclusion in the Health Bill 2016 is to give effect to other legislations**

**CLAUSE 89**

**THAT** the Bill be amended by deleting Clause 89

**Committee Recommendation**

**The Committee rejects the Senate amendment to Clause 89**

**Justification**

**This is to encourage Private sector participation in the health sector**

**CLAUSE 91**

**THAT** the Bill be amended by deleting Clause 91

**Committee Recommendation**

**The Committee rejects the Senate amendment to Clause 91**

## **Justification**

### **Private sector participation in the health sector requires regulation**

#### **The First Schedule**

THAT the First Schedule be amended –

The schedule is amended as follow:

The technical levels as follows Level Four amended from Primary Hospital to County Referral Hospital; Level 5 amended from Secondary Hospital to Regional Referral Hospital and Level 6 amended from Tertiary Hospital to National Referral Hospital.

- (a) Level 1, Delete the Note and replace with “ The In charge is a qualified health practitioner registered by the respective regulatory body
- (b) Level 3, Delete the Note and replace with “The In charge is a nurse, Clinical officer or medical officer. The in charge shall have at least two years work experience in a management position.
- (c) Level 4 “Delete the Note and replace with “The In charge is a qualified health practitioner registered by the respective regulatory body  
Holds a Masters degree in a health related field from a university recognized in Kenya;  
Has a postgraduate qualification in management  
Has at least five years work experience in management position
- (e) Level 6 “Delete the Note and replace with “The In charge is a qualified health practitioner registered by the respective regulatory body  
Holds a Masters degree in a health related field from a university recognized in Kenya;  
Has a postgraduate qualification in management  
Has knowledge and at least ten years work experience in a senior management position

#### **Committee Recommendation**

**The Committee rejects the Senate amendments to the First Schedule**

### 3.0 SUMMARY COMMITTEE RECOMMENDATIONS

Having considered the Senate amendments to the Health Bill 2016, the Committee recommends that the National Assembly:-

4. **Approves** the Senate amendments to **Clauses 2, 7(3), 12(1), 15(a) (f) (i), 20 (marginal note), 27, 28, 46(4), 49 (2a)**
5. **Rejects** the Senate amendments to **Clauses 5(4), 15(c), 16(2)(a), 17(i)(j), 18, 19(4)(a), 24(a), 25, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 62, 63, 64, 65, 66, 67, 73, 89, 91, First schedule.**
6. **Rejects** the Senate amendments with further amendments to **Clauses 5(3), 20,46 (1f)**

SIGNED:.....

THE HON. DR. RACHEAL NYAMAI M.P

(CHAIRPERSON)

DEPARTMENTAL COMMITTEE ON HEALTH

DATE.....

#### 4.0 ADOPTION OF THE REPORT

We the Members of the Departmental Committee on Health have pursuant to the Standing Order 1999 adopted this Report on the Senate Amendments to the Health Bill, 2016 and affix our signatures to affirm our approval and confirm validity today.....

1. **The Hon. Dr. Racheal Nyamai, M.P.**.....
2. **The Hon. Dr. Robert Pukose, M.P.** .....
3. The Hon. John Nyaga Muchiri, M.P.....
4. The Hon. Dr. Dahir D. Mohamed, M.P.....
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29. The Hon. Alfred Sambu, M.P. ....

**DC-H: DEPARTMENTAL COMMITTEE ON HEALTH**

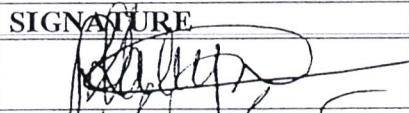



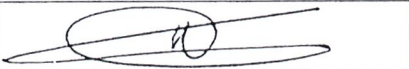


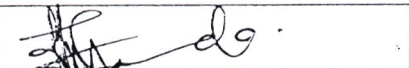

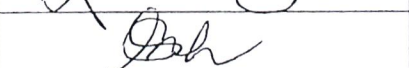
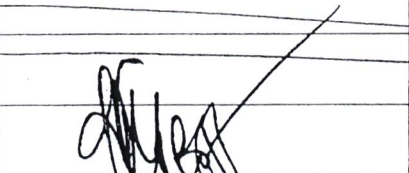
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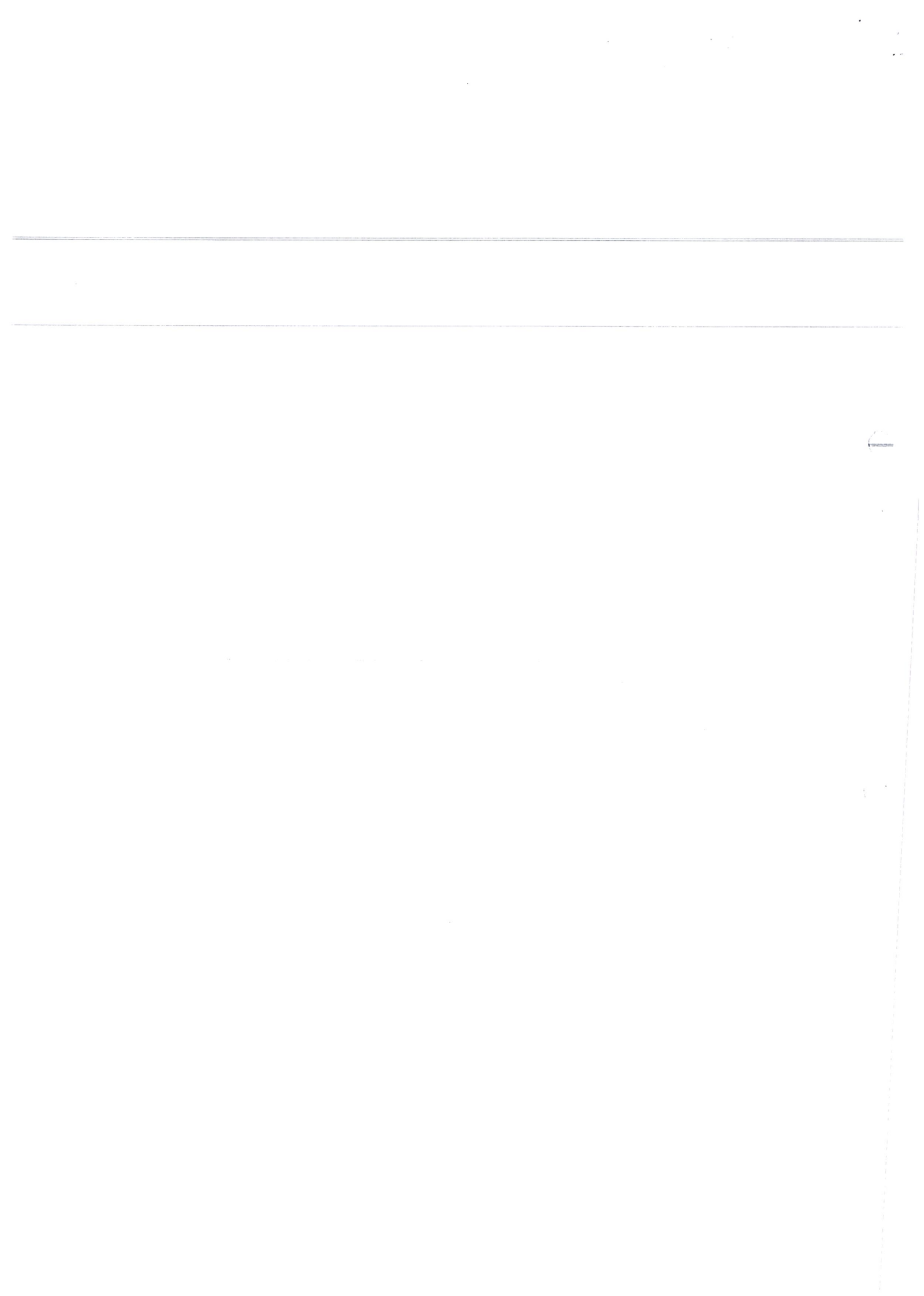
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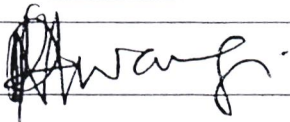
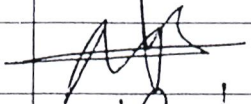
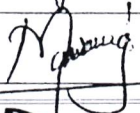
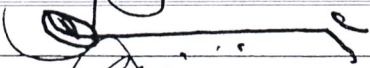
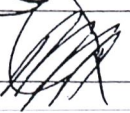
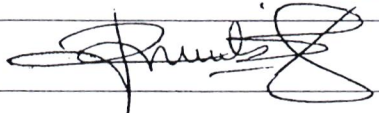
- a) MEETING WITH THE KENYA DENTAL TECHNOLOGISTS ASSOCIATION REGARDING THE REGULATION OF DENTAL TECHNOLOGISTS
- b) CONSIDERATION AND ADOPTION OF REPORTS ON: SENATE AMENDMENTS TO THE HEALTH BILL, 2016 AND THE STATUTE LAW (MISCELLANEOUS AMENDMENTS) (NO.2) BILL, 2015

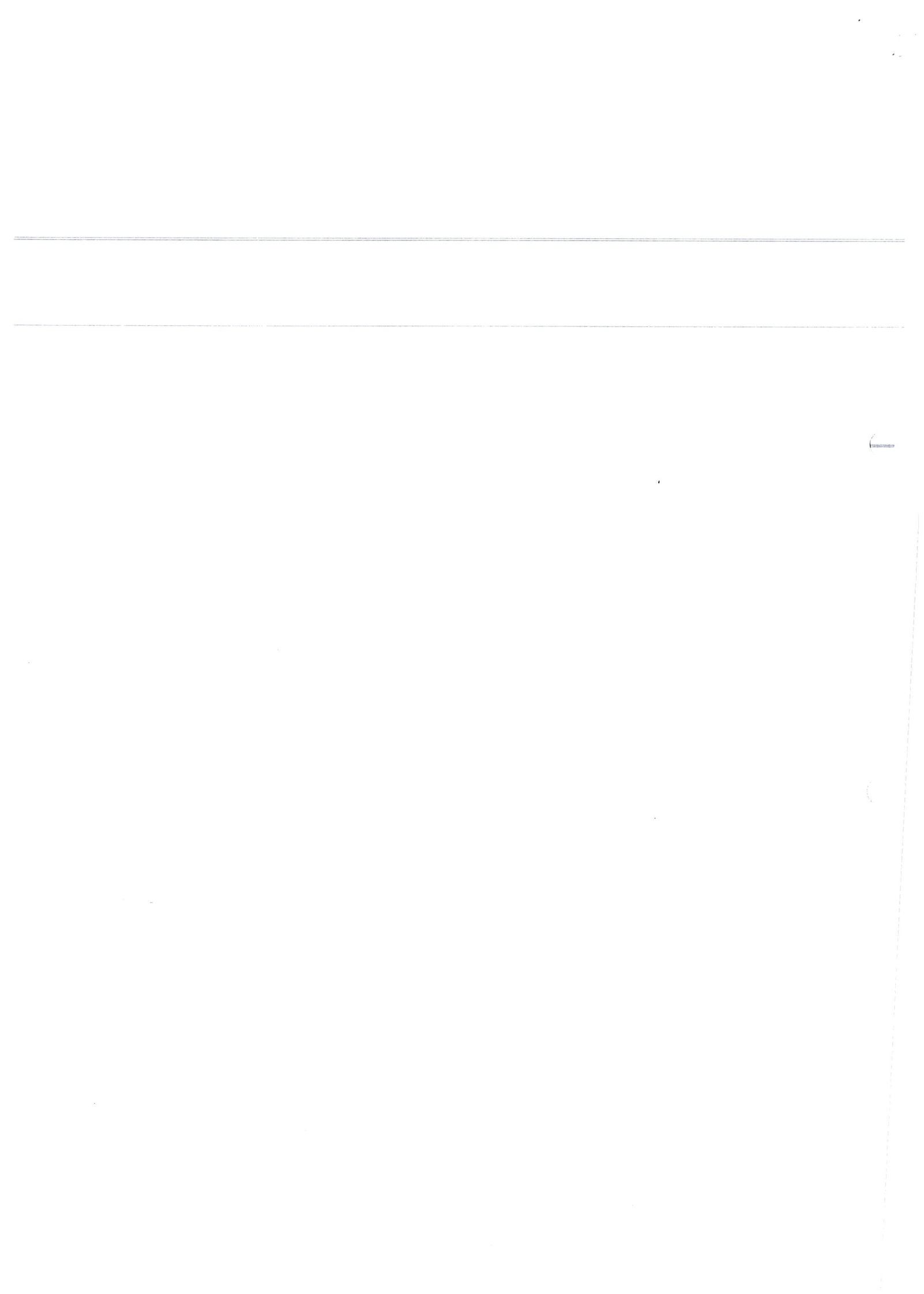
**DATE:** 23<sup>rd</sup> August, 2016.

**VENUE:** 2<sup>nd</sup> floor, Continental Hse

	NAME	SIGNATURE
1.	Hon. Dr. Rachel Nyamai, M.P. Chairperson	
2.	Hon. Dr. Robert Pukose, M.P. Vice Chairperson	
3.	Hon. Alfred Agoi, M.P.	
4.	Hon. David Karithi, M.P.	
5.	Hon. Dr. Dahir Mohamed, M.P.	
6.	Hon. Dr. Enock Kibunguchy, M.P.	
7.	Hon. Dr. James Murgor, M.P.	
8.	Hon. Dr. James Nyikal, M.P.	
9.	Hon. Dr. James Gesami, M.P.	
10.	Hon. Dr. Naomi Shaban, M.P.	
11.	Hon. Dr. Patrick Musimba, M.P.	
12.	Hon. Eng. Stephen Mule, M.P.	
13.	Hon. Dr. Stephen Wachira, M.P.	
14.	Hon. Dr. Susan Musyoka, M.P.	
15.	Hon. Fred Outa, M.P.	
16.	Hon. Hassan Aden Osman, M.P.	
17.	Hon. James Gakuya, M.P.	
18.	Hon. John Nyaga Muchiri, M.P., HSC	



19.	Hon. Dr. Eseli Simiyu, CBS, M.P.	
20.	Hon. Kamande Mwangi, M.P.	
21.	Hon. Leonard Sang, M.P.	
22.	Hon. Michael Onyura, M.P.	
23.	Hon. Mwinga Gunga, M.P.	
24.	Hon. Paul Koinange, M.P.	
25.	Hon. Raphael Milkau Otaalo, MP	
26.	Hon. Zipporah Jesang, MP	
27.	Hon. Alfred Sambu, M.P.	
28.	Hon. Robert Mbui, MP	
29.	Hon. Jared Opiyo, MP	



MINUTES OF THE 67<sup>TH</sup> SITTING OF THE DEPARTMENTAL COMMITTEE ON HEALTH HELD ON TUESDAY, 23<sup>RD</sup> AUGUST, 2016, IN THE COMMITTEE ROOM ON 2<sup>ND</sup> FLOOR, CONTINENTAL HOUSE, PARLIAMENT BUILDINGS AT 10.00 AM.

**PRESENT**

1. The Hon. Dr. Racheal Nyamai, M.P. (Chairperson)
2. The Hon. Dr. Robert Pukose, M.P. (Vice Chairperson)
3. The Hon. Dr. James Murgor, M.P.
4. The Hon. Alfred Agoi, M.P.
5. The Hon. Dr. James Nyikal, M.P.
6. The Hon. Dr. Stephen Wachira, M.P.
7. The Hon. David Karithi, M.P.
8. The Hon. Raphael Milkau Otaalo, M.P.
9. The Hon. Robert Mbui, M.P.
10. The Hon. John Nyaga Muchiri, M.P.
11. The Hon. Paul Koinange, M.P.
12. The Hon. Dr. Susan Musyoka, M.P.
13. The Hon. Michael Onyura, M.P.
14. The Hon. Mwinga Gunga, M.P.
15. The Hon. Stephen M. Mule, M.P.
16. The Hon. Kamande Mwangi, M.P.
17. The Hon. Dr. Naomi Shaban, M.P.

**ABSENT WITH APOLOGY**

1. The Hon. Zipporah Jesang, M.P.
2. The Hon. Dr. Eseli Simiyu, CBS, M.P.
3. The Hon. Dr. Enoch Kibunguchy, M.P.
4. The Hon. Jared Opiyo, M.P.
5. The Hon. James Gakuya, M.P.
6. The Hon. Dr. James O. Gesami, M.P.
7. The Hon. Leonard Sang, M.P.
8. The Hon. Dr. Dahir D. Mohamed, M.P.
9. The Hon. Fred Outa, M.P.
10. The Hon. Dr. Patrick Musimba, M.P.
11. The Hon. Hassan Aden Osman, M.P.
12. The Hon. Alfred Sambu, M.P.

**IN ATTENDANCE**

**National Assembly Secretariat**

1. Ms. Esther Nginyo - Third Clerk Assistant.
2. Mr. Dennis Mogare - Third Clerk Assistant.

3. Ms. Marlene Ayiro - Legal Counsel  
 4. Ms. Marale Sande - Senior Researcher

**Kenya Dental Technologists Association**

- |                           |   |                        |
|---------------------------|---|------------------------|
| 1. Amos Kipsumbai         | - | Chairperson, KDTA      |
| 2. Mary C. Chumo          | - | Secretary, KDTA        |
| 3. Benard M. Irungu       | - | Vice Chairperson, KDTA |
| 4. Isaih Minyonga         | - | Member                 |
| 5. Daniel Ndunde Wanyanga | - | Member                 |
| 6. Gideon K. Kibowen      | - | Member                 |
| 7. Joseph M. Wainaina     | - | Member                 |
| 8. Nathan Baraza Simiyu   | - | Member                 |
| 9. Stephen M. Musau       | - | Member                 |
| 10. Fredrick Situma       | - | Member                 |
| 11. Patrick Wafula        | - | Member                 |
| 12. Lois Mutual           | - | Member                 |
| 13. Joseph Kangogo        | - | Member                 |
| 14. John Kariuki          | - | Member                 |

**MIN.NO. DCH 276/2016: PRELIMINARIES.**

The Chairperson called the meeting to order at 10.27 am and a prayer was said by Hon. Dr. Robert Pukose, M.P. She then stated that the agenda of the meeting was meeting with the Kenya Dental Technologists Association regarding the regulation of dental technologists and consideration and adoption of reports on: Senate Amendments to the Health Bill, 2016 and the Statute Law (Miscellaneous Amendments) (No.2) Bill, 2015. She then invited all those present to introduce themselves.

**MIN.NO. DCH 277/2016: MEETING WITH THE KENYA DENTAL TECHNOLOGISTS ASSOCIATION REGARDING THE REGULATION OF DENTAL TECHNOLOGISTS**

The Chairperson stated that pursuant to provisions of Standing Order 114 (3) (b), -the Hon Speaker Of The National Assembly directed that the proposed Dental Technologists Bill, 2016 sponsored by the member for Bureti Constituency, Hon. Leonard Sang, be referred to the Committee on Health for pre-publication scrutiny.

The proposal was committed to the Committee on 5<sup>th</sup> May, 2016. The Committee then wrote to the Ministry of Health, the Attorney General and the Kenya Law Reform Commission for their comments. However, only the Ministry of Health provided its views. It also engaged the sponsor of the legislative proposal.

She then invited the Kenya Dental Technologists Association as one of the key stakeholders to make their presentation.

### **Presentation by the Chairperson, Kenya Dental Technologists Association**

The Chairperson, Kenya Dental Technologists Association, Mr. Amos Kipsumbai, appeared before the Committee and informed it that:

1. Dental Technology was a profession which involved processes and procedures in design, fabrication/construct and repair of fixed and removable oral and extra-oral appliances and prostheses. It is the technical aspect/part of dentistry and is a global profession.
2. A dental technologist is a member of the dental team who participate prevention, curative, promotion and rehabilitation for the wellbeing of a population, upon prescription from a dental clinician, constructs custom made restorative and dental appliances/prostheses.
3. Dental Technology has five specialties namely; Prosthodontic technology, Crown and Bridge technology (Cerapist), Orthodontic technology and Maxillo-facial technology.
4. Dental Technology services are currently offered in public health facilities, faith related institutions, National security agencies and commercial dental laboratories.
5. Dental Technology training in Kenya started in 1968 at Medical Training Centre under Ministry of Health at Kabete. Currently training is offered by Kenya Medical Training College (Diploma) and Mount Kenya University (Diploma and Bachelor's Degree).
6. There are about 1200 Kenyan trained dental Technologists, with a third of them registered with Kenya Dental Technologists Association (KDTA).
7. Dental technologists are trained and equipped to: plan, design and fabricate dental prostheses and appliances; evaluate procedures in dental prostheses and appliances; execute leadership and management duties in a health care delivery system; plan and conduct community health education programs; formulate and implement policies on oral health; take impressions and shade taking and conduct research and disseminate information on health related issues; monitor and evaluate programs; teaching and training of dental technology; ensure quality and safety of appliances and prostheses; trial fit and repair of dental prostheses and appliances; select appropriate dental materials for the design, fabrication and repair of fixed and removable oral and facial appliances and prostheses; working with a dentist in the clinic, in consultation in fitting attachments, implant frame assessment at chair side; record occlusal registrations, carry out intra-oral scanning for CAD/CAM; and keep full and accurate records in the dental laboratory.
8. Dental Technology plays a major role in prevention, curative, promotion and rehabilitation of individuals for a health Nation as per WHO definition of Health. Social interaction among individual is guaranteed by presence of teeth. In communication, teeth are key in communication. Dental technologists ensure that communication is sustained. In the management of cancer Dental Technologists are involved in rehabilitation and restoration through design and construction of appliances and prostheses. In agriculture and industry, for our economy to grow we require a strong population who are health and

able to feed well. In sports, especially contact sports e.g. rugby, hockey and boxing, dental technologists manufacture the requisite protective gadgets to guard against injury to oral tissues. In national security dental technology plays a vital role. The Kenya Defense Forces require the services of dental technologists in case of injury or loss of oral structures, and to offer services which restore the confidence and smile of our soldiers. In other work places, dental technologists help to restore self-esteem and to avoid lost man hours in the work place in case of loss of teeth. Dental technologists also work in training institutions, especially in the training of dentists. Dental Technologists are involved in training of dentists globally.

9. On Justification for the proposed Dental Technologists Bill, 2016 he stated that the justification includes:
- i) The existence of gaps in regulation - Despite the existence of several laws regulating health professions; there is an evident gap in the regulation of dental technologists, hence the proposal to have the Dental Technologists Bill, 2016. Dentists and community oral health officers (COHOs) offer clinical dental services. Dentists are regulated by the Kenya Medical and Dental Practitioners Board.
  - ii) The need for Supervision and Discipline - It is important to emphasize that no other profession can supervise dental technologists, not even dentists. In the course of their training, dentists have to study some aspects of dental technology in order that they can understand dental products and also be able to give proper prescriptions (measurements) to dental technologists for the manufacture of any required dental products. Dentists do not, for instance, study all materials used by dental technologists.
  - iii) The need to curb quarks - A proper legislation will ensure that quarks who take advantage of the fact that there is no existing regulation are dealt with. Without the law, today all that is required for one to operate a dental laboratory is the payment of county business license fees. The materials used, as well as the quality of the workmanship, if not properly regulated, can cause tremendous harm.
  - iv) The need for Quality assessment and control of related products - Today, the bulk of imports of products made by dental technologists in Kenya come from China, India, Korea, Turkey and Germany. There is no body that is vested with powers, or has the technical knowhow, to regulate such products. As a result, Kenyans are exposed to all kinds of products, some of which are made with materials of suspect quality and origin.
  - v) The need for accreditation of training institutions - The proposed Dental Technologists Bill, 2016 seeks to regulate all aspects of dental technology, from training and registration to licensing. This regulation will extend to individual practitioners, private practice and training institutions. Presently, in sub-Saharan Africa, Kenya has the lead in training of dental technologists. In fact, most African countries send their dental technologists for training in Kenya.

vi) The need for job and wealth creation – Kenya has a youth bulge facing rising unemployment, any legislation that guarantees job creation should be encouraged. The proposed Dental Technologists Bill, 2016 guarantees the creation of many jobs for our youth by qualified, registered and licensed dental technologists. Dental Technology is both a clinical and technical profession. The clinical aspect entails working with dentists and surgeons who prescribe the products that dental technologists need to make. The technical aspect includes the manufacturing of such products. Dental technologists are manufacturers.

vii) Favorable budget implications - The proposed draft Dental Technologists Bill, 2016 has been considered by the Parliamentary Budget Office whose determination was that the Bill may proceed as contemplated in the relevant Constitutional provisions and the Standing orders. Notwithstanding the determination that the draft Bill is a “Money Bill”, the Dental Technologists Bill, 2016 does not require the Exchequer to make any allocation for the implementation and or operationalization of Bill.

### **MEMBERS’ OBSERVATIONS**

Members observed that:

1. There was a need to seriously consider categorizing cadres that were related under one regulatory authority to avoid fragmentation of the health regulatory regime in the country.
2. There was an urgent need to review existing legal framework especially the Medical Practitioners and Dentists Act to accommodate related cadres in the board to regulate their training, licensing, registration and practice.

#### **MIN.NO. DCH278/2016: CONSIDERATION AND ADOPTION OF A REPORT THE STATUTE LAW (MISCELLANEOUS AMENDMENTS) (NO.2) BILL, 2015.**

The Report on the Statute Law (Miscellaneous Amendments) (No.2) Bill, 2015 was considered and adopted after being proposed and seconded by Hon. Dr. Robert Pukose, M.P. and Hon. Robert Mbui, M.P. respectively.

The Report was adopted with the recommendation that the National Assembly rejects the proposed amendment to the National Hospital Insurance Fund (NHIF) Act as provided in the Statute Law (Miscellaneous Amendments) (No.2) Bill 2015.

#### **MIN.NO. DCH279/2016: CONSIDERATION AND ADOPTION OF A REPORT ON SENATE AMENDMENTS TO THE HEALTH BILL, 2016**

The Report on Senate Amendments to the Health Bill, 2016 was considered and adopted after being proposed and seconded by Hon. John Nyaga Muchiri, M.P. and Hon. Michael Onyura, M.P. respectively.

The Report was adopted with recommendations that the National Assembly:

- (i) **Approves** the Senate amendments to **Clauses 2, 7(3), 12(1), 15(a) (f) (i), 20 (marginal note), 27, 28, 46(4), 49 (2a)**

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- (ii) **Rejects** the Senate amendments to **Clauses 5(4), 15(c), 16(2)(a), 17(i)(j), 18, 19(4)(a), 24(a), 25, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 62, 63, 64, 65, 66, 67, 73, 89, 91, First schedule.**

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- (iii) **Rejects** the Senate amendments with further amendments to **Clauses 5(3), 20, 46 (1f)**

**MIN.NO. DCH 280/2016:**

**ANY OTHER BUSINESS**

Members were informed that the Committee on Health together with the Budget and Appropriations Committee had been invited to a forum on tobacco taxation by the International Institute for Legislative Affairs on 24<sup>th</sup> August, 2016 at 7.30 am. Members were urged to confirm their attendance to the forum.

**MIN.NO. DCH 281/2016:**

**ADJOURNMENT**

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

**SIGNED:**

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

**DATE:**

.....  
**30/8/2016**  
.....

MINUTES OF THE 63<sup>RD</sup> SITTING OF THE DEPARTMENTAL COMMITTEE ON HEALTH HELD ON FRIDAY, 19<sup>TH</sup> AUGUST, 2016, AT THE SERENA BEACH RESORT AND SPA, MOMBASA AT 9.00 AM.

**PRESENT**

1. The Hon. Dr. Racheal Nyamai, M.P. (Chairperson)
2. The Hon. Dr. Robert Pukose, M.P. (Vice Chairperson)
3. The Hon. Dr. James Murgor, M.P.
4. The Hon. Alfred Agoi, M.P.
5. The Hon. Dr. James Nyikal, M.P.
6. The Hon. Dr. Stephen Wachira, M.P.
7. The Hon. David Karithi, M.P.
8. The Hon. Raphael Milkau Otaalo, M.P.
9. The Hon. Leonard Sang, M.P.
10. The Hon. Dr. Dahir D. Mohamed, M.P.
11. The Hon. Fred Outa, M.P.
12. The Hon. Robert Mbui, M.P.
13. The Hon. Mwinga Gunga, M.P.
14. The Hon. Dr. James O. Gesami, M.P.
15. The Hon. Stephen M. Mule, M.P.
16. The Hon. Dr. Naomi Shaban, M.P.
17. The Hon. Jared Opiyo, M.P.
18. The Hon. James Gakuya, M.P.

**ABSENT WITH APOLOGY**

1. The Hon. Zipporah Jesang, M.P.
2. The Hon. Kamande Mwangi, M.P.
3. The Hon. Dr. Eseli Simiyu, CBS, M.P.
4. The Hon. Dr. Enoch Kibunguchy, M.P.
5. The Hon. John Nyaga Muchiri, M.P.
6. The Hon. Paul Koinange, M.P.
7. The Hon. Dr. Susan Musyoka, M.P.
8. The Hon. Michael Onyura, M.P.
9. The Hon. Dr. Patrick Musimba, M.P.
10. The Hon. Hassan Aden Osman, M.P.
11. The Hon. Alfred Sambu, M.P.

**IN ATTENDANCE**

**Member**

Hon. Mary Emaase, M.P.

**National Assembly Secretariat**

1. Ms. Florence A. Abonyo - Director, Committee Services
2. Ms. Esther Nginyo - Third Clerk Assistant.
3. Ms. Ruth Mwiwaki - Third Clerk Assistant
4. Mr. Dennis Mogare - Third Clerk Assistant.

- |                        |   |                    |
|------------------------|---|--------------------|
| 5. Ms. Marlene Ayiro   | - | Legal Counsel      |
| 6. Ms. Marale Sande    | - | Senior Researcher  |
| 7. Mr. Joash Kosiba    | - | Fiscal Analyst     |
| 8. Ms. Farida Ngasura  | - | Audio Recording    |
| 9. Ms. Beatrice Auma   | - | Personal Secretary |
| 10. Mr. Albert Ndemo   | - | Serjeant-At-Arms   |
| 11. Mr. Stephen Omunzi | - | Office Assistant   |

**Ministry of Health**

- |                           |   |  |
|---------------------------|---|--|
| 1. Dr. Pacifica Onyancha  | - | Deputy Director of Medical Services          |
| 2. Dr. Mary Wangai        | - | Head, Division of Legislation and Regulation |
| 3. Mr. Leonard W. Kariuki | - | Ag. Government Chemist                       |
| 4. Ms. Betty Soi          | - | Senior State Counsel                         |
| 5. Dr. Wilfred Ochieng    |   |  |
| 6. Dr. Njar Mungai        |   |  |
| 7. Dr. Anthony Cherotich  |   |  |
| 8. Mr. R.M. Inyangala     |   |  |

**MIN.NO. DCH 262/2016: PRELIMINARIES.**

The Chairperson called the meeting to order at 9.01 am and a prayer was said by Hon. Dr. Robert Pukose, M.P. She then stated that the agenda of the meeting was Consideration of the Senate Amendments to the Health Bill, 2016. She then invited all those present to introduce themselves.

**MIN.NO. DCH 263/2016: CONSIDERATION OF THE SENATE AMENDMENTS TO THE HEALTH BILL, 2016.**

The Committee was briefed on the Senate Amendments to the Health Bill, 2016 by the legal counsel, the researcher and the fiscal analyst attached to the Committee. After lengthy deliberations, the Committee resolved as tabulated below:

CLAUSE	SENATE AMENDMENT AND JUSTIFICATION	COMMITTEE RESOLUTION AND JUSTIFICATION
Clause 2	<p><b>THAT</b> clause 2 of the Bill be amended by-</p> <p>(a) deleting the interpretation of the word “abortion”; and</p> <p><u>Justification</u>  <b>The term abortion has not been used in the bill and is not necessary to be defined.</b></p>	Agreed to
	<p>(b) inserting the following new definition in the proper alphabetical sequence – “death” means the permanent loss of capacity for consciousness and the loss</p>	Agreed to

	of all brainstem functions; <b>Justification</b> <b>There is need to define the term death which has been used in clauses 81(1, 2 &amp;3), 84(1b)</b>	
Clause 5	<b>THAT</b> clause 5 of the Bill be amended by inserting the following new subsections immediately after subsection (2) — (3) The national and county governments shall ensure the provision of free and compulsory — (a) vaccination for children under five years of age; and (b) Maternity care. (4) For the purposes of implementing subsection (3), the national government shall in consultation with the respective county government provide conditional grants to county governments <b>Justification</b> <b>The amendment seeks to anchor into legislation provision of free maternity care and ensure provision of funds through conditional grants to cater for the service.</b>	The Committee agrees with the proposed amendment to Sub clause 5(3) with further amendment to delete the phrase “compulsory”.  The Committee rejects the Senate amendment to Sub – clause (5) (4) <b>Justification</b> <b>To legislate for the conditional grants goes against best practice and causes rigidity in law.</b>
Clause 7	<b>THAT</b> clause 7 of the Bill be amended by deleting sub-clause (3). <b>Justification</b> <b>The amendment seeks to put the burden of providing emergency treatment on the health facility and not the health provider</b>	Agreed to
Clause 12	<b>THAT</b> clause 12(1) of the bill be amended in paragraph (a) by deleting the words “their health status” appearing immediately after the words “on account of” and substituting therefor the words “any of the grounds set in Article 27(4) of the Constitution”.	Agreed to
Clause 15	<b>THAT</b> clause 15 of the Bill be amended in sub-clause (1) by – (a) inserting the words “ including reproductive health care and the right to emergency treatment” at the end of paragraph (a);	The Committee agrees with the proposed amendments in Sub Clause (15) (a) (f) (i) and recommends its approval.  The Committee rejects the Senate amendment for Sub

	<p>(b) deleting paragraph (c);</p> <p>(c) deleting the words “and implement” appearing after the word “develop” and substituting therefor the word “policy” in paragraph (f); and</p> <p>(d) Inserting the word “policy” immediately after the words “put in place” in paragraph (i).</p> <p><b>Justification</b>  <b>These amendments will ensure that the role of the national government is more of policy as health is a devolved function.</b></p>	<p>clause (15) (c).</p> <p><b>Justification</b>  <b>The role of the National Government is to ensure the implementation of the rights to health, enforcing standards and policies including ensuring that Kenya meets the international health obligations</b></p>
Clause 16	<p><b>THAT</b> clause 16 of the Bill be amended by deleting sub-clause (2) and substituting therefor the following new sub-clause-</p> <p>(2) The Director-General for health shall be recruited by the Public Service Commission through a competitive process and appointed by the Cabinet Secretary.</p> <p>Substituting paragraph (a) with a new paragraph “be a health practitioner registered by respective regulatory body;</p> <p><b>Justification</b>  <b>The position of the director-general is not equivalent to that of a cabinet secretary or principal secretary and as such there would be no need to have the director-general vetted by Parliament and appointed by the President. The amendment will make the director-general’s position to be appointed by the cabinet secretary through a competent recruitment exercise carried out by the Public Service Commission.</b></p>	<p>The Committee rejects the Senate amendment to Clause 16(2) and paragraph (a)</p> <p><b>Justification</b>  <b>Best practice show that Director Generals for Health are qualified Medical practitioners. Health is key to a population as all other sectors are dependent on a healthy nation.</b></p>
Clause 17	<p><b>THAT</b> clause 17 of the bill be amended by</p> <p>—</p> <p>(a) Deleting paragraph (i) “ provide guidelines for registration, licensing, certification, gazettelement of all health facilities</p> <p>(b) Deleting paragraph (j) be responsible for internship program for health workers</p>	<p>The Committee rejects the proposed Senate amendments on Clause 17(i) and (j)</p> <p><b>Justification</b>  <b>The role of the National Government is developing standards, policies and guidelines for registration, licensing, certification, and gazettelement. Additionally, internship is part of training.</b></p>

		Training and capacity building is a function of the National Government.
Clause 18	<p><b>THAT</b> clause 18 of the Bill be deleted and substituted with the following new clause-  <b>18.</b> For purposes of section 15(1) (b), the Cabinet Secretary shall-</p> <p>(a) form directorates to deal with the following matters -</p> <p>i) medical services;  ii) nursing and allied workers;  iii) pharmaceutical services;  iv) public health; and  v) administrative services;</p> <p>(b) Notwithstanding paragraph (a), form directorates based on policy priority areas in consultation with the Director-General.</p> <p><b>Justification</b>  The amendment compels the cabinet secretary to create directorates that deal with key areas within the health sector for better coordination</p>	<p>The Committee rejects the Senate amendments to Clause 18</p> <p><b>Justification</b>  <b>Creation of Directorates is an administrative issue that does not require legislation. This also introduces rigidity in the law and will therefore mean that whenever the Ministry requires reorganization an amendment to the law will be required. Further the proposed directorates are limiting and are cadre specific.</b></p>
Clause 19	<p><b>THAT</b> clause 19 of the Bill be amended in sub-clause (4) by deleting paragraph (a) and substituting therefor the following new paragraph-</p> <p>(a) be a health practitioner registered by the respective regulatory body</p>	<p>The Committee rejects the Senate amendment to Sub-clause 19(4) (a)</p> <p><b>Justification</b>  <b>For the effective management of the health function in the County, the County Director of Health must be a medical practitioner.</b></p>
Clause 20	<p><b>THAT</b> clause 20 of the Bill be amended by-</p> <p>(a) deleting the introductory phrase and substituting therefor the following new phrase-</p> <p>the county government in furtherance of the functions assigned to it under the Fourth Schedule of the Constitution shall be responsible for-</p> <p>(b) deleting the marginal note and</p>	<p>The Committee rejects the Senate Committee to Clause 20 and proposes further amendments to include the phrase "Health" after "of the" and the phrase "in consultation through the established inter-governmental relations mechanisms" immediately after the Constitution.</p> <p>The Committee further accepts the Senate amendment to the</p>

	<p>inserting therefor the following new marginal note-</p> <p>duties of county government</p> <p><b><u>Justification</u></b>  <b>Part 2 of the Fourth Schedule to the Constitution assigns functions to County governments and not departments and as such, the amendment seeks to realign the clause to the Constitution.</b></p>	<p>marginal notes on Clause 20 and recommends its approval</p>
Clause 24	<p><b>THAT</b> clause 24 of the Bill be amended by deleting paragraph (a).</p> <p><b><u>Justification</u></b>  <b>This amendment is necessary after the deletion of classification of health facilities.</b></p>	<p>The Committee rejects the Senate amendments to Sub-clause 24(a)</p> <p><b><u>Justification</u></b>  <b>The Constitutional role of the National Government is to manage any public health institutions classified as a national referral facility</b></p>
Clause 25	<p><b>THAT</b> clause 25 of the Bill be deleted.</p> <p><b><u>Justification</u></b>  <b>This clause deletes the classification of health facilities as highlighted in the First Schedule to the Bill. County governments need to be given the freedom to develop health facilities to the highest standards without the fear that these facilities will later be taken up by the National government</b></p>	<p>The Committee rejects the Senate amendment to Clause 25</p> <p><b><u>Justification</u></b>  <b>The technical classifications are in line with the Health Policy 2014-2030 which provide for the technical classifications as Community, Dispensaries, Health Centre, Primary referral facilities, Secondary referral facilities and Tertiary referral facilities.</b></p>
Clause 27	<p><b>THAT</b> clause 27(1) of the Bill be amended by inserting the following new paragraph immediately after paragraph (b) –  (c) be a platform for mutual consultation, coordination and collaboration between the national and county governments on all matters related to health</p>	<p>Agreed to</p>
Clause 28	<p><b>THAT</b> clause 28 of the Bill be amended by deleting sub-clause (2).</p> <p><b><u>Justification</u></b>  <b>The amendment is to correct the repletion as 28(2) and 29 deal with the same matter.</b></p>	<p>Agreed to</p>
Clauses 30 to 44	<p><b>THAT</b> Clauses 30 to 44 be deleted</p> <p><b><u>Justification</u></b>  <b>Deletion of clauses 30 to 44, deletes the entire Part V of the Bill, which deals</b></p>	<p>The Committee rejects the Senate amendments to Clauses 30 – 44</p>

	with the establishment of the Kenya Human Resource Advisory Council in order to give the county governments the independence to deal with the health workforce.	<u>Justification</u> The Health Human Resource Advisory Council was established to address the current gap in the harmonization of the County health workers emerging issues including but not limited to internships, rationalizing of remuneration, transfers, promotions and other staff issues.
Clause 46	<p><b>THAT</b> clause 46 of the Bill be amended by-</p> <p>(a) deleting sub-clause (1f); and</p> <p><u>Justification</u> After deleting the Council at clause 30, the amendment is necessary as reference had been made to the Council to nominate members to the health professions oversight authority.</p> <p>(b) deleting sub-clause (4).</p> <p><u>Justification</u> As the powers of the Authority are vested in the board, the business and affairs of the board as contained in the second schedule are sufficient. The amendment deletes the repetition.</p>	<p>The Committee rejects the proposed Senate amendment to Clause 46(1f) and amends it to include the phrase "of Governors".</p> <p>The Committee agrees to the proposed Senate amendments to Sub-clause 46 (4) and recommends its approval</p>
Clause 49	<p><b>THAT</b> clause 49 of the Bill be amended in subsection (2) by deleting paragraph (a) and substituting therefor the following new paragraph -</p> <p>(a) is a health practitioner registered by the respective regulatory body;</p>	Agreed to
Clauses 62 to 66	<b>THAT</b> Clause 62 to Clause 66 be deleted.	<p>The Committee rejects the Senate amendment to Clauses 62- 66</p> <p><u>Justification</u> Clauses 62-66 provide for the establishment by an Act of Parliament a single regulatory body for regulation of health products and health technologies. The Government policy is to separate the regulation of professionals from products and health technologies for efficiency and</p>

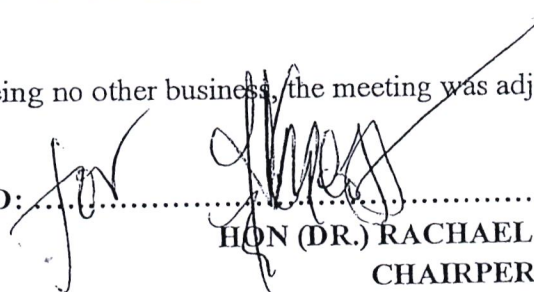
		to improve health services. This is informed by health practices in other Countries like the United States Food and Drugs Authority.
Clause 67	THAT the Bill be amended by deleting clause 67	The Committee rejects the Senate amendment to Clause 67  <u>Justification</u> This is aimed at standardizing the quality and cost of drugs and medicines procured by all Government facilities at both the National and County Governments
Clause 73	THAT the Bill be amended by deleting clause 73	The Committee rejects the Senate amendment to Clause 73  <u>Justification</u> Mental health is a major health issue and its inclusion in the Health Bill 2016 is to give effect to other legislations.
Clause 89	THAT the Bill be amended by deleting clause 89	The Committee rejects the Senate amendment to Clause 89  <u>Justification</u> This is to encourage Private sector participation in the health sector
Clause 91	THAT the Bill be amended by deleting clause 91	The Committee rejects the Senate amendment to Clause 91  <u>Justification</u> Private sector participation in the health sector requires regulation.
The First Schedule	THAT the First Schedule be amended as follows:  The technical levels as follows Level Four amended from Primary Hospital to County Referral Hospital; Level 5 amended from Secondary Hospital to Regional Referral Hospital and Level 6 amended from Tertiary Hospital to National Referral Hospital.  (a) Level 1, Delete the Note and replace with " The In charge is a qualified health practitioner registered by the respective regulatory body	The Committee rejects the Senate amendments to the First Schedule

	<p>(b) Level 3, Delete the Note and replace with "The In charge is a nurse, Clinical officer or medical officer. The in charge shall have at least two years' work experience in a management position.</p> <p>(c) Level 4 "Delete the Note and replace with "The In charge is a qualified health practitioner registered by the respective regulatory body</p>	
	<p>(d) Level 5 "Delete the Note and replace with "The In charge is a qualified health practitioner registered by the respective regulatory body</p> <p>Holds a Master's degree in a health related field from a university recognized in Kenya;          Has a postgraduate qualification in management          Has at least five years' work experience in management position</p> <p>(e) Level 6 "Delete the Note and replace with "The In charge is a qualified health practitioner registered by the respective regulatory body</p> <p>Holds a Master's degree in a health related field from a university recognized in Kenya;          Has a postgraduate qualification in management          Has knowledge and at least ten years work experience in a senior management position</p>	

MIN.NO. DCH 264/2016:                      ADJOURNMENT

There being no other business, the meeting was adjourned at 12.45 pm.

SIGNED: .....



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

DATE: .....

