

REPUBLIC OF KENYA

KENYA NATIONAL ASSEMBLY

ELEVENTH PARLIAMENT – THIRD SESSION

THE DEPARTMENTAL COMMITTEE ON HEALTH

REPORT ON THE CONSIDERATION OF THE MENTAL HEALTH BILL, 2014

PARLIAMENT BUILDINGS
NAIROBI

FEBRUARY, 2015

V02

1.0 PREFACE

Mr. Speaker, Sir

The Committee on Health is one of the Departmental Committees of the National Assembly established under Standing Order 216 and mandated to, inter alia; '**... study and review all legislations referred to it**'.

1.1 Committee Membership

The Committee was constituted by the House on Thursday 16th May, 2013 comprising of the following Members:-

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

1.2 Committal and consideration of the Mental Health Bill, 2014

Mr. Speaker, Sir

On 3rd June, 2014, the Mental Health Bill, 2014 was read a first time and thereafter committed to the Departmental Committee on Health for consideration pursuant to Standing Order 127 (1). Pursuant to Article 118 and Standing Order 127 (3), the Committee placed advertisements in the local dailies (the Standard and the Daily Nation newspapers) on 11th June, 2014, calling for memoranda from the general public on the Bill.

The Committee received Memoranda from the Commission for the Implementation of the Constitution (CIC), The Ministry of Health, The Council of Governors and the Kenya Psychiatric Association (KPA) whose observations and comments are summarised below:-

(i) The Commission for the Implementation of the Constitution (CIC)

During pre-publication scrutiny stage, the Commission for the Implementation of the Constitution (CIC) noted that the Bill needed to demarcate functions of each level of Government with regards to mental health. Further, CIC noted that the Bill needed redrafting and rearrangement to address the ambiguities in the provisions.

(ii) Ministry of Health

The Ministry of Health in their submission noted that as a key stakeholder, the Ministry was not involved in the initial stages of the Bill. Further, it noted that the Bill failed to make provisions for minors and children with mental health disorder for admission or treatment in hospitals. It also failed to make provision for patients from foreign countries and the members of the Kenya Defence Forces. The Ministry also noted that the Bill does not put into consideration the fact that health is a devolved function. Of importance to note, Part IX of the Ministry's draft Health Bill requires the National Government to develop appropriate legislation to govern mental health in Kenya.

(iii) Council of Governors

The Council of Governors also made proposals for amendment especially in Clauses 51 and 52 on the Membership and the Powers of the Board.

(iv) The Kenya Psychiatric Association

The Kenya Psychiatric Association (KPA) in their Memorandum noted with concern that the public had been invited to submit views yet the core stakeholders; service providers, managers, policy and programme designers and implementers among others were not involved in the preliminary stages of development of the Bill as is the norm. KPA also observed that the Bill repeals some of the key and viable sections of the Mental Health Act, Chapter 248, revised 1991, of the Laws of Kenya which has tremendously contributed to the improved care and management of mental patients in Kenya.

1.3 Acknowledgement

Mr. Speaker, Sir

The Committee is thankful to the Offices of the Speaker and the Clerk of the National Assembly for the logistical and technical support accorded to it during its Sittings. Finally, I wish to express my appreciation to the Honourable Members of the Committee who sacrificed their time to participate in the activities of the Committee and preparation of this report.

Mr. Speaker, Sir,

It is therefore my pleasant duty and privilege, on behalf of the Departmental Committee on Health, to table its Report in the House on the consideration of the Mental Health Bill, 2014 for consideration pursuant to Standing Order 127 (4)

Signed.....



Date.....

17/2/2015

(HON. DR. RACHAEL NYAMAI, MP)

CHAIRPERSON,
DEPARTMENTAL COMMITTEE ON HEALTH

1.0 INTRODUCTION

The Mental Health Bill, 2014 is a Bill for an Act of Parliament to provide for the prevention of mental illness, care, treatment and rehabilitation of persons with mental illness; to provide for the procedures for admission, treatment and general management of persons with mental illness. Further the Bill proposes to establish a Mental Health Board.

As such the Mental Health Bill, 2014 seeks to repeal the Mental Health Act, Cap 248 of the Laws of Kenya

2.0 SITUATIONAL ANALYSIS

- (i) The fundamental aim of mental health legislation is to protect, promote and improve the lives and mental well-being of citizens. Mental Health Legislation in particular is complementary to mental health policies, plans and programs and should therefore provide the framework for addressing critical mental health issues like access to care, rehabilitation and aftercare, the full integration of people with mental disorders into the community and the promotion of mental health in different sectors of the society.
- (ii) There has been a clamor to review the Mental Health legislation (Cap 248) following the promulgation of the Constitution in 2010. Additionally, Kenya is also a signatory to several International Human Rights instruments e.g. the Convention on the Rights of Persons with Disability (CRPD) ratified in 2006 and which stakeholders felt needed to be incorporated in the Act. Further, the spirit behind Cap 248 was safeguarding members of the public from 'dangerous' patients and isolating them from the public rather than promoting their rights.
- (iii) As such, there is need to have a clear interface between mental health law and mental health policy with the former providing a legal framework for implementation and enforcement of the policy. Currently, the framework for mental health care is the Draft Kenya Health Policy 2012 – 2030 whose second policy objective is to *'halt and reverse the rising burden of non-communicable conditions and mental disorders by promoting universal access to interventions addressing priority non-communicable conditions and mental disorders in the Country'*. The Mental Health Policy 2012 however remains a draft.

- (iv) Further Clause 52 of the Draft Health Bill, 2014 provides for Mental Health and as such bestows a lot of responsibility on the National Government Department of Health to:-
- (a) Protect the rights of any individual suffering from any mental disorder or condition;
 - (b) Ensure the Custody of such persons and management of their estates;
 - (c) Establish, manage and control mental hospitals to have the capacity to serve all parts of the Country;
 - (d) Advance the implementation of other measures introduced by specific legislation in the field of Mental Health; and
 - (e) Ensure research is conducted to identify the factors associated to mental health.
- (v) Major Human Rights Standard applicable to mental health include:-
- (a) The 1991-UN Principles for the Protection of Persons with Mental Illness and the Improvement of Mental Health Care (MI Principles,);
 - (b) The 1993- Standard rules on the Equalization of Opportunities for Persons with disabilities (Standard Rules, 1993);
 - (c) The 2006- Convention on the Right of Persons with Disabilities (CRPD);
 - (d) The 1996- WHO Technical Standards: WHO developed the Mental Health Care Law to guide countries in developing mental health laws. These summarizes the basic principles:-
 - Promotion of mental health and prevention of mental disorders
 - Access to basic mental health
 - Mental Health assessment in accordance with internationally accepted principles
 - Provision of less restrictive type of mental health care
 - Self-determination
 - Right to be assisted in the exercise of self-determination
 - Availability of review procedure
 - Automatic periodic review mechanism

- Qualified decision maker
- Respect of rule of Law

2.1 Comparative analysis

Majority of the countries in the world have introduced comprehensive reforms of Mental Health Services and initiated various measures and programmes to support Persons with mental disorders with a focus on providing community based services and continuity care.

England: Mental Health services in 1960s focused on custodial care. This has however been replaced-gradually with community based services such as specialists' outpatient services and residential care services. Reforms were geared towards substantial involvement of primary cares services in the diagnosis and treatment of mentally ill patients including a co-ordinated medical and social care program

The Mental Health Act 1983, the Equality Act 2010 and the Mental Capacity Act 2005 are the major pieces of legislation that safeguard the rights of mentally ill persons in England.

Australia: The 1950s mental health care system focused on custodial care. In 1992 reforms were geared towards moving away from a hospital based system to one that focuses on supporting mentally ill persons in the community.

Like England, Australia has separate pieces of legislation to protect the rights of mentally ill persons: (i) Mental health legislation providing for care, treatment and control of mentally ill persons (ii) anti-discrimination or equal opportunity legislation protecting mentally ill persons against discrimination in areas such as work, education and provision of goods, facilities and accommodations (iii) management of personal and financial affairs for mentally ill persons

Singapore: Mental health services have evolved to become community based since 1993. Singapore opted to adopt a balanced model combining hospital and community care in its mental health care system. Singapore's mental health system operates under the Mental Health (Care and Treatment) Act which provides for a myriad of issues including admission, detention, care and treatment, offences of mentally ill patients among others. Singapore considers the Constitution as adequate in addressing issues of discrimination on mentally ill persons and as such does not have separate legislation on that.

Overall, in all the selected Countries:-

- (i) Long term mental health policy has been developed by the responsible authority to guide development of mental health systems;

- (ii) Mental health care systems have been reformed into a balanced hospital - and community based system. (Generally moving towards Human Rights Based approach to Mental Health Services);
- (iii) All the three countries have enacted mental health legislation that provides for compulsory reception, detention and treatment of mentally ill persons to protect their right and those of the public, compulsory treatment in the community;

England and Australia have specific legislation for safeguarding mentally ill persons against discrimination, and legislation protecting people who lack mental capacity in making decisions on personal and financial matters.

3.0 COMMENTS FROM THE STAKEHOLDERS

3.1 MINISTRY OF HEALTH

The Ministry of Health submitted vide its letter dated 15th August, 2014 the health sector stakeholders views on the Bill as follows, that:-

- (i) The Bill is not aligned to the draft Kenya Health Policy (2012 – 2030) and the Health Policy which are the 'mother' Health Policy and Health Bill.
- (ii) The Bill in its provision seems to limit access to health care services in the health service delivery system especially in Clause 30(i) where a person is incapable of giving informed consent and there is no representative at the time of emergency admission.
- (iii) The Bill does not make provision for children and minors with mental disorder for admission or treatment in hospital.
- (iv) The Bill does not make provision for patients from foreign countries.
- (v) The Bill does not make provision for admission and discharge procedures for members of the Kenya Defence Forces as provided for in the existing Mental Health Act, Cap 248 of the Laws of Kenya.
- (vi) The Bill does not clearly categorize types of admission to health facilities and does not clearly describe the procedures to be followed, i.e.
 - Voluntary admission
 - Voluntary admission for person under 16 years of age (under parents or guardians)
 - Involuntary admission for a person of 16 years of age and above
 - Emergency admission for person without relatives or friends (personal representation)
 - Admission and discharge of members of the Kenya Defence Forces
 - Admission and discharge of patients from foreign countries.

- (vii) The terms used in the Bill are not clear such as 'health care provider', qualified medical practitioner', accredited health practitioner', mental health practitioner' and 'health care practitioner'.
- (viii) The Bill seems not to have taken into account that health is a devolved function under the Fourth Schedule in the Constitution and therefore health services are functions of the County Governments.
- (ix) The Ministry has submitted a draft Mental Health Bill, 2014 that had stakeholders' views to address the gaps in the private Member Mental Health Bill, 2014.

3.2 THE KENYA PSYCHIATRIC ASSOCIATION

The Kenya Psychiatric Association (KPA) in its submission noted that the core stakeholders, service providers, managers, policy and programme designers and implementers among others were not involved in the preliminary stages of the development of the Bill. The KPA as an association of mental health professionals whose membership includes; psychiatrists, psychologists, nurses, social workers, academicians in the mental health, occupational therapists, counsellors, physicians, nutritionists, community health workers, psychotherapists and addiction specialists among others; experience the best practice and challenges in service delivery, and they carry the burden of the mental health in Kenyan institutions and in the public domain.

KPA therefore submitted that:-

- (i) The Mental Health Bill, 2014 in its current form systematically excluded the afore-mentioned stakeholders' views; hence it has precariously omitted key professional stakeholders in Mental Health in Kenya.
- (ii) Some sections of the proposed Bill were not consistent with the Constitution of Kenya, 2010 and the Mental Health Act Chapter 248, revised in 1991 of the Laws of Kenya, both of which clearly define the roadmap to attainment of the highest level of health care in Kenya.
- (iii) Some of the provisions of the proposed Bill limit the patients' and public access to effective healthcare, more so, emergency treatment and the mental patients' full rights as enshrined in the Constitution of Kenya.
- (iv) The Bill repeals some of the key and viable sections of the Mental Health Act, Chapter 248, revised 1991, of the Laws of Kenya which has tremendously contributed to the improved care and management of mental patients in Kenya.
- (v) The proposed Bill in its current form, adversely limits the well established procedures and processes of determination of mental illnesses, assessment and requisite treatment and care of person with mental illness.

3.3 THE COUNCIL OF GOVERNORS

The Council of Governors in their submission proposed amendments in Clause 51 and 52 on the Membership and the Powers of the Board as follows, that:-

- Clause 51(b) be revised to read –“advice and make recommendations to the National and County Governments on the state of mental health and mental health care facilities.
- Clause 51(e) be revised to read “assist, where necessary, in the administration of mental health facilities to provide technical and capacity building.”
- Clause 51(f); include at the end of the sentence” or recommend to the Cabinet Secretary, any remedial action in consultation with the respective regulatory body.” Clause 51(g) to be deleted.
- After clause 51(h) there should be a new section 52 with a preamble. The membership in section 52 should include ;—
 - i) A county representative appointed by the council of governors.
 - ii) A legal practitioner to be appointed by the law society of Kenya and should be a person with experience in human rights or medical issues.

3.4 THE COMMISSION FOR THE IMPLEMENTATION OF THE CONSTITUTION

The Commission for the Implementation of the Constitution in their submission noted issues of concern in the Bill as follows, that:-

- (i) The Fourth Schedule to the Constitution provides that health is a devolved function and in this regard mental Health. In some of the Clauses the Bill assigns functions to both “the National and County Government”. It is important therefore that the Bill demarcates the functions of each level of Government with regards to mental health.
- (ii) The Bill also seeks to establish a mental health Board which CIC recommends its reconsideration for the following reasons, that:-
 - (a) The composition of the Board comprises of representatives only from the National Government, however the functions that are assigned to the Board are functions that require to be undertaken by both levels of Government for the Board to undertake such functions, it will require being an intergovernmental mechanism.
 - (b) Some of the functions assigned to the Board are currently undertaken by existing bodies e.g. the Kenya Medical Practitioners and Dentist Board and hence if necessary the recommendation would be to strengthen existing bodies to undertake their functions as opposed to the creations of other bodies.

- (iii) The Bill contains some unclear provisions and recommends redrafting to address the ambiguities in the provisions.
- (iv) The key functions of the Bill is to ensure the protection of the rights of persons with mental illness Bill and CIC recommends rearrangement of the Bill to ensure an orderly flow by providing the rights of persons with mental illness immediately after the preliminary section.

4.0 COMMITTEE OBSERVATIONS

Having analysed the Bill and having considered the comments from various stakeholders the Committee observed that:-

- (i) The Enactment of the Health Act, 2014 should provide for the overarching framework for mental health and the Draft Mental Health Policy should provide for a framework on interventions for securing Mental Health in Kenya.
- (ii) Mutual collaboration between National and County Governments (Departments of Health). Primary and community health care is overwhelmingly devolved at County level and as such the place of County Governments in mental health services cannot be ignored. The Bill should clearly provide the framework for institutional co-ordination.
- (iii) Consultations are of essence in this kind of legislation owing to the misconceptions, lack of understanding and diversity and complexity. There is need to consult users and their representatives, relevant National government ministries/ departments, professional groups, the County Governments, the wider community.
- (iv) There will be increased budget allocation towards implementation of the Bill.

5.0 COMMITTEE RECOMMENDATIONS

Taking into account the above observations arising from the memoranda presented by the various stakeholders, the Committee recommends that:-

The mover allows more consultation with all the stakeholders and the implementing agency in a bid to have a more comprehensive law devoid of duplication in view of the fact that the Ministry has presented a draft Mental Health Bill, 2014 to address the gaps and is also in the process of concluding a more comprehensive and inclusive Bill – The Health Bill.

MINUTES OF THE 59TH SITTING OF THE DEPARTMENTAL COMMITTEE ON HEALTH HELD IN THE SMALL DINING, MAIN PARLIAMENT BUILDINGS ON TUESDAY, 22ND JULY, 2014 AT 10.00AM

PRESENT:

- | | |
|--|------------------|
| 1. The Hon. Dr. Rachael Nyamai, MP | - Chairperson |
| 2. The Hon. Dr. Robert Pukose, M.P | - V. Chairperson |
| 3. The Hon Alfred Agoi, M.P. | |
| 4. The Hon. Christopher Nakuleu, MP | |
| 5. The Hon. David Karithi, M.P | |
| 6. The Hon. Dr. Enoch Kibunguchy, M.P. | |
| 7. The Hon. Dr. James Murgor, M.P | |
| 8. The Hon. Dr. James Gesami, M.P | |
| 9. The Hon. Dr. Stephen Wachira, M.P | |
| 10. The Hon. James Gakuya, M.P. | |
| 11. The Hon. John Nyaga Muchiri, M.P | |
| 12. The Hon Joseph Magwanga, M.P | |
| 13. The Hon. Leonard Sang, M.P | |
| 14. The Hon. Michael Onyura, M.P | |
| 15. The Hon Zipporah Jesang, M.P. | |

ABSENT WITH APOLOGY:

- | | | |
|-------------------------------------|--|---|
| 16. The Hon Dr. Susan Musyoka, M.P. | | 23. The Hon. Dr. Dahir D Mohamed, M.P |
| 17. The Hon Mwinga Gunga, M.P. | | 24. The Hon. Dr. David Eseli, M.P |
| 18. The Hon. Dr. Naomi Shaban, M.P | | 25. The Hon. Dr. James Nyikal, M.P |
| 19. The Hon Dr. Stephen Mule, M.P | | 26. The Hon. Fred Outa, M.P. |
| 20. The Hon Hassan Osman, M.P | | 27. The Hon. Raphael Milkau Otaalo, M.P |
| 21. The Hon Kamande Mwangi, M.P. | | 28. The Hon. Dr. Patrick Musimba, M.P |
| 22. The Hon Mwahima Masoud, M.P. | | 29. The Hon. Paul Koinange, M.P |

IN ATTENDANCE:

National Assembly Secretariat

- | | | |
|-----------------|---|-----------------------|
| 1. Nebert Ikai | - | Third Clerk Assistant |
| 2. Hassan Arale | - | Third Clerk Assistant |
| 3. Marale Sande | - | Senior Researcher |
| 4. Vane Akama | - | Legal Counsel |

Ministry of Health

- | | | |
|----------------------|---|--------------------|
| 1. Dr. David Kiima | - | SDM/CMS |
| 2. Dr. Simon Njuguna | - | SADM/ Psychiatrist |

MIN. NO DCH 266/2014:

PRELIMINARIES

The meeting was called to order at 10.00 am followed by a word of prayer from the Hon. Dr. James Murgor, M.P

MIN NO DCH 267/2014:

ADOPTION OF REPORT ON KENYA NATIONAL AIDS AUTHORITY BILL, 2014

The Report on Kenya National AIDS Authority Bill, 2014 was unanimously adopted.

MIN NO DCH 268/2014:

ADOPTION OF REPORT ON THE STATUTE LAW (MISCELLANEOUS AMMENDMENT) BILL, 201C

The Committee deferred adoption of the Report and introduced an amendment to include faith-based healthcare providers, Central Organization of Trade Unions (COTU), Federation of Kenya Employers (FKE) and Faith-based Organizations in the NHIF Board.

Hon Sammy Mwaita MP informed the Committee that he intends to move the following amendment to the Statute Law (Miscellaneous Amendment) Bill, 2014:

THAT, the Bill be amended in the Schedule in the proposed amendments to the National Hospital Insurance Fund Act, 1998, by inserting the following new amendments in their proper numerical sequence-

Provision Amendment

s. 18(1) Delete and substitute, therefor the following-

"(1) Subject to the provisions of this section and without prejudice to any other penalty imposed under this Act, if any contribution which any person is liable to pay under this Act in respect of any month, is not paid on or before the day on which payment is due, a penalty equal to-

(a) in the case of micro and small enterprises, forty percent of the amount of that contribution; and

(b) in any other case, two times the amount of that contribution,

shall be payable by that person for each month or part thereof during which the contribution remains unpaid, and any such penalty shall be recoverable as a sum due to the Fund, and when recovered, shall be paid into the Fund".

New Insert the following new subsection immediately after subsection (3)-

"(4) In this section, the expressions "micro enterprise" and "small enterprise" have the meanings assigned thereto respectively in the Micro and Small Enterprises Act, 2012".

MIN NO DCH 269/2014

CONSIDERATION OF MENTAL HEALTH BILL, 2014

The Committee met with officials of the Ministry of Health to give submissions on the Mental Health Bill, 2014.

MoH submissions were as follows:

Part I: Preliminary:

It fails to legally and technically define correctly the key actors and the terminologies as indicated in the Bill.

The objects and purposes fail to state if the Bill amends, repeals or consolidates other existing mental health related laws despite the intent of its miscellaneous provisions.

On the promotion of mental health as a component of primary prevention; the Bill is silent on the legal provisions to enhance a prevailing living environment that ensures protective factors and reduces on risk factors for the enhancement of mental well-being.

Part II: Access to mental health services:

The Bill fails to provide for a legal framework, which ensures access to the highest attainable standard of mental healthcare and emergency treatment by both National and County Governments.

There are no provisions on mental health systems and resources thereof to ensure; quality, availability, affordability, appropriateness, acceptability and equality of services.

Mental health services as an integral part of health services; the Bill negates the spirit and letter of the Constitution especially on the stipulated functions of health services for the National and County Government.

Part III: Determination of mental illness;

The Bill contradict and confuses on the purpose, process and circumstances of the determination of mental illness it's proposes.

The Bill does not recognize mental illness as a disease with evidence based and best practice management highly guided by medical science and ethics.

Part V: Provisions on Admission and treatment;

The Bill fails to technically define; voluntary, involuntary and emergency admission and treatment.

It does not provide for emergency treatment of person with mental illness in a public place whom due to the severity of disease is not capable to express himself and is in danger to self and others.

The Bill has no provisions for treatment of; a foreigner within the country, children and the role of Government as a surrogate mother in such cases of emergency treatment and care of the person with mental illness.

Part VI: Mentally ill offender;

The Bill fails to recognize provisions of other existing laws e.g. Prison act, Penal code, criminal procedure code, sexual offences act, children act e.t.c in regards to treatment and care of mentally ill offenders.

Part VIII: Review, appeal, discharge and transfer of person with mental illness

The Bill excludes significant provisions in the Mental Health Act and the amendments proposed by the Ministry of Health Mental health Bill2014.

Part IX: Care and administration of property of person with mental illness

The Bill excludes significant gains by provisions the Mental Health Act. It's fails to address the judicial power on testamentary and contractual capacity and competencies.

Part X: Mental health Board;

The bills reverses gain achieved by mental health act such as; provision on a Director of Mental Health and an office of the director in the public services as strongly adhered by World Health Organization (WHO) members states to mainstream mental health.

The Bill ignores the place of an important decentralized governance structure provided in the mental health act; such as District mental health councils.

The Bill is silent on roles and functions of the board in a devolved system of Government

The financial provisions contradict the principles of public financial management.

Way Forward:

It was resolved that the Ministry of Health to provide comprehensive stakeholders' participation to review, revise the Bill and amalgamate with Mental Health Act 1989 and amendments proposed on Mental Health Act (1989) by Ministry of Health Bill, 2014.

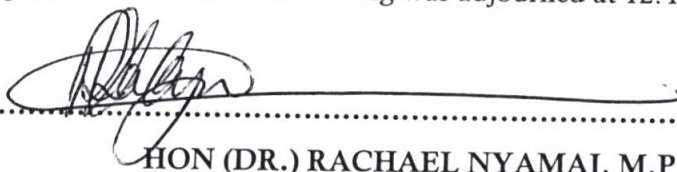
MIN. NO. DCH 270/2014 ANY OTHER BUSINESS

1. The Hon. Dr. James Gesami, M.P informed the Committee that the Director of National Aids Control Council lost her son and requested the Committee to support the family during the mourning period.
2. The Chair reminded the Members to honour their pledge to support Hon Dr. Stephen Wachira, MP in meeting his sister's medical expenses in India. The Committee had agreed to contribute a minimum of Kshs. 20,000 per member.
3. Clerks to circulate copies of FY 2014/15 printed Budget Estimates in the next sitting.
4. The members were informed of the circular in the newspaper informing them to desist from using CDF funds in constructing hospitals in constituencies.
5. The Committee advised that that the Fiscal Analyst attached to Committee to scrutinize tender documents concerning leasing of medical equipment.

MIN. NO. DCH271/2014 ADJOURNMENT

There being no other business the meeting was adjourned at 12:40PM.

SIGNED.....



5/8/2014

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

DATE:

5/8/2014

MINUTES OF THE 72ND SITTING OF THE DEPARTMENTAL COMMITTEE ON HEALTH HELD IN WHITESANDS RESORT, MOMBASA, ON FRIDAY, 22ND AUGUST, 2014 AT 2.30PM.

PRESENT:

1. The Hon. Dr. Rachael Nyamai, MP MP
(Chairperson)
2. The Hon. Dr. Robert Pukose, M.P (V. Chairperson)
3. The Hon. David Karithi, M.P
4. The Hon. Dr. Dahir Mohamed, M.P
5. The Hon. Dr. James Murgor, M.P
6. The Hon. Dr. James Gesami, M.P
7. The Hon. Dr. Stephen Wachira, M.P
8. The Hon. Joseph Magwanga, M.P
9. The Hon. Mwinga Gunga, M.P.
10. The Hon. James Gakuya, M.P.
11. The Hon. Leonard Sang, M.P
12. The Hon. Michael Onyura, M.P
13. The Hon. Eng. Stephen Mule, M.P
14. The Hon. Dr. Susan Musyoka, M.P.
15. The Hon. Kamande Mwangi, M.P.
16. The Hon. Fred Outa, M.P.
17. The Hon. Alfred Agoi, M.P.
18. The Hon. Christopher Nakuleu, MP.
19. The Hon. Hassan Osman, M.P
20. The Hon. Dr. Naomi Shaban, M.P
21. The Hon. John Nyaga Muchiri, M.P.
22. The Hon. Zipporah Jesang, M.P.
23. The Hon. Dr. David Eseli, M.P.

ABSENT WITH APOLOGY:

24. The Hon. Dr. Patrick Musimba, M.P
25. The Hon. Mwahima Masoud, M.P.
26. The Hon. Raphael Otaalo, M.P.
27. The Hon. Dr. Enoch Kibunguchy, M.P.
28. The Hon. Paul Koinange, M.P.
29. The Hon. Dr. James Nyikal, M.P.

National Assembly Secretariat

1. Mrs. Florence Atenyo Abonyo - Director, Committee Services
2. Ms. Leah Wanjiru Mwaura - First Clerk Assistant
3. Mr. NebertIkai - Third Clerk Assistant
4. Mr. Hassan Arale - Third Clerk Assistant
5. Ms. Marale Sande - Senior Researcher
6. Mr. Peter Mwaura - Legal Counsel

MIN. NO DCH 324/2014:

PRELIMINARIES

The meeting was called to order at 2.30 pm followed by a word of prayer.

MIN NO DCH 325/2014:

CONSIDERATION OF MENTAL HEALTH BILL, 2014

The Senior Researcher took the Committee through the analysis of the Bill (copy attached)

Committee Concerns

The Committee raised the following concerns:

- i. That the Ministry of Health opposed the Bill on the grounds that that the existing Act is stronger. The Ministry has since submitted a new Bill on the same.
- ii. That the Committee should consult further with the Psychiatric Association, the main stakeholders on the matter.
- iii. Members noted the advice of Constitution Implementation Commission (CIC) advising that the Bill be redrafted to bring consistency and also the rights of the mentally ill to follow after preliminary.
- iv. The Bill should clearly define a mentally-ill person's right to marry and have children.
- v. The legislation on mental health needs to be strengthened because of the increase in substance abuse, stress from unemployment and poor living conditions.

Way Forward

The Legal Counsel and Committee Researcher were tasked to scrutinize the two Bills and report to the Committee so to guide the Committee on harmonization of the two Bills.

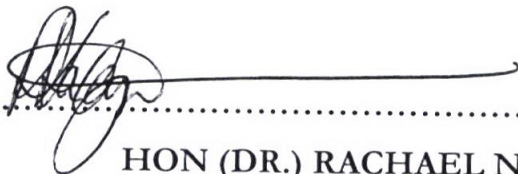
The Committee will seek the input of experts especially the Psychiatric Association.

MIN. NO. DCH 326/2014

ADJOURNMENT

There being no other business the meeting was adjourned at 5.10 PM

SIGNED.....



HON (DR.) RACHAEL NYAMAI, M.P

CHAIRPERSON

DATE:.....

2/10/2014

MINUTES OF THE 5TH SITTING OF THE DEPARTMENTAL COMMITTEE ON HEALTH HELD IN MEMBERS' LOUNGE, PARLIAMENT BUILDINGS ON TUESDAY 17TH FEBRUARY, 2015, AT 10.00 AM.

PRESENT

1. The Hon. Dr. Racheal Nyamai, M.P. (Chairperson)
2. The Hon. Dr. Robert Pukose, M.P. (Vice Chairperson)
3. The Hon. Dr. James Murgor, M.P.
4. The Hon. Christopher Nakuleu, M.P.
5. The Hon. David Karithi, M.P.
6. The Hon. Dr. Dahir D. Mohamed, M.P.
7. The Hon. Leonard Sang, M.P.
8. The Hon. Mwinga Gunga, M.P.
9. The Hon. Dr. James O. Gesami, M.P.
10. The Hon. Dr. Stephen Wachira, M.P.
11. The Hon. Hassan Aden Osman, M.P.
12. The Hon. James Gakuya, M.P.
13. The Hon. Raphael Milkau Otaalo, M.P.
14. The Hon. Kamande Mwangi, M.P.
15. The Hon. Michael Onyura, M.P.
16. The Hon. Zipporah Jesang, M.P.
17. The Hon. John Nyaga Muchiri, M.P.
18. The Hon. Stephen M. Mule, M.P.
19. The Hon. Alfred Agoi, M.P.
20. The Hon. Dr. James Nyikal, M.P.
21. The Hon. Joseph O. Magwanga, M.P.

ABSENT WITH APOLOGY

1. The Hon. Paul Koinange, M.P.
2. The Hon. Dr. Patrick Musimba, M.P.
3. The Hon. Alfred Outa, M.P.
4. The Hon. Dr. Naomi Shaban, M.P.
5. The Hon. Mwahima Masoud, M.P.
6. The Hon. Dr. Eseli Simiyu, M.P.
7. The Hon. Dr. Enoch Kibunguchy, M.P.
8. The Hon. Dr. Susan Musyoka, M.P.

IN ATTENDANCE

National Assembly Secretariat

- | | | |
|--------------------|---|------------------------|
| 1. Esther Nginyo | - | Third Clerk Assistant |
| 2. Dennis Mogare | - | Third Clerk Assistant. |
| 3. Hassan A. Arale | - | Third Clerk Assistant. |

- | | | |
|--------------------|---|-------------------|
| 4. Peter Mwaura | - | Legal Counsel |
| 5. Reyhan Mohammed | - | Research Officer |
| 6. Moses Kariuki | - | Sergeant at Arms. |

MIN. NO. DCH 20/2015: PRELIMINARIES

The Chairperson called the meeting to order at 10:28 am and a prayer was said by Hon. Dr. Robert Pukose, M.P. The Chairperson then welcomed Members to the meeting and the agenda for the meeting was adopted as proposed by Hon. Dr. Robert Pukose, M.P. and seconded by Hon. Dr. James Murgor, M.P.

MIN. NO. DCH 21/2015: CONFIRMATION OF MINUTES

Minutes of the 4th Sitting that was held on 12th February, 2015 were confirmed as a true record of the proceedings having been proposed by Hon. Kamande Mwangi, MP and seconded by Hon. Raphael Milkau Otaalo, MP.

MIN. NO. DCH 22/2015: MATTERS ARISING

Under MIN. DCH 17/2015 (2) On the victimization of Ministry of Health officers who provided information to the Committee Members during a visit to the Malaba Border, it was resolved that the Committee be furnished with the employees' details including their names and the where they were transferred to.

Under MIN. DCH 17/2015(6) on the Joint Tetanus Vaccine tests, it was resolved that the Members of the Joint Committee be invited to appear before the Committee on Tuesday, 24th February, 2015 to brief it on its report findings.

Under MIN. DCH 17/2015(7) on the payment of the Clinical Officers interns, it was resolved that the Committee to meet with the Kenya Medical Training Centre to agree on a sustainable solution for the interns.

MIN. NO. DCH 23/2015: BRIEFING BY THE LEGAL COUNSEL ON THE PETITION ON THE NON-PAYMENT OF THE CLINICAL OFFICER INTERNS

The Committee was informed that the Petition presented to Parliament by the Kenya Union of Clinical Officers on the non-payment of the clinical officers interns did not meet the threshold of a petition in line with Standing Order 220. It was noted that the Petition did not contain the subject matter and that it had not been signed. The Committee however resolved that since the petitioners had been invited to appear before it on Thursday, 19th February, 2015, the petitioner to be

informed on the same, and that the issues raised by the petitioners to be addressed in the said meeting.

MIN. NO. DCH 24/2015: CONSIDERATION OF THE REPORTS ON : MENTAL HEALTH BILL, 2014 AND IN VITRO FERTILIZATION BILL, 2014

The Committee considered the report on the Mental Health Bill, 2014 and unanimously adopted it after being proposed by Hon. Dr. Robert Pukose, MP and seconded by Hon. Raphael Milkau Otaalo, MP.

The Committee also considered the report on In Vitro Fertilization Bill, 2014 and unanimously adopted it after being proposed by Hon. Dr. Robert Pukose, MP and seconded by Hon. Dr. Nyikal, MP.

MIN. NO. DCH 25/2015: ANY OTHER BUSINESS

The following matters were raised under this agenda item;

1. Hon. Shakeel Shabbir, MP had petitioned the Committee to consider the matter of Irregular registration of a private eye centre – eye and U-Kenya. It was resolved that Hon. Shakeel appears before Thursday, 19th February, 2015 to brief the Committee on the same.
2. It was agreed that the Committee report writing retreat in Mombasa be held from Thursday, 26th February, 2015 to 1st March, 2015.

MIN. NO. DCH 26/2015 ADJOURNMENT

There being no other business the meeting was adjourned at 12.05 pm.

SIGNED.....

HON (DR.) RACHAEL NYAMAI, M.P

CHAIRPERSON

DATE:.....