

REPUBLIC OF KENYA

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ELEVENTH PARLIAMENT
THIRD SESSION



THE SENATE

STANDING COMMITTEE

ON

HEALTH

A REPORT ON THE HEALTH BILL, (NATIONAL ASSEMBLY BILLS. NO 14
OF 2015)

Clerk's Chambers,
First Floor,
Main Parliament Buildings,
NAIROBI.

Approved
[Signature]
13 JULY, 2016

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ABBREVIATIONS

COG	Council Of Governors
DG	Director General
KNUN	Kenya National Union of Nurses
KMPDB	Kenya Medical Practitioners and Dentist Board
KMPDU	Kenya Medical Practitioners and Dentist Union

PREFACE

Mr. Speaker Sir,

Establishment of the Committee

The Senate Standing Committee on Health was constituted pursuant to the provisions of Senate Standing Order 208 (1) which states:

Mandate of the Committee

The Committee is mandated, under the Second Schedule of the Senate Standing Orders to consider all matters relating to medical services, public health and sanitation.

Membership of the Committee

The Committee is comprised of the following members:-

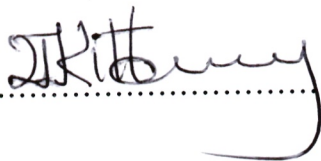
1. Sen. Mohamed Kuti, MP - **Chairman**
2. Sen. Zipporah Kittony, MP - **Vice Chairman**
3. Sen. Wilfred Machage, MP
4. Sen. Wilfred Lesan, MP
5. Sen. Beth Mugo, MP
6. Sen. Abdirahman Hassan Ali, MP
7. Sen. Catherine Mukitte, MP
8. Sen. Godliver Omondi, MP
9. Sen. Mshenga Mvita MP

Acknowledgement

The Committee wishes to thank the Offices of the Speaker and the Clerk of the Senate for the support extended to it in the conduct of its meetings and the public hearing. The Committee also thanks members of the public who made submissions, both orally and in writing.

Mr. Speaker Sir,

It is my pleasant duty, pursuant to Standing Order 134 (1), to present the Report of the Standing Committee of Health on the Health Bill, National Assembly Bills. No 14 of 2015 for consideration by the House.

Signed.......... Date..12/7/2016.....
FOR: SEN. MOHAMED KUTI

CHAIRPERSON

EXECUTIVE SUMMARY

The Health Bill, National Assembly Bills. No 14 of 2015 was first read in the Senate, 27th April, 2016. Following the First Reading, the Bill, stood committed to the Standing Committee on Health pursuant to Standing Order No. 130 (1) of the Senate Standing Orders.

Subsequently, the Committee resolved to subject it to public hearings pursuant to Article 118 of the Constitution and Standing Order 130 (4). The Committee invited submissions from members of the public on the Bills via advertisements on the newspapers.

The Committee received written submissions on the Bills and held a public hearing on 15th June, 2016 at the Shimba Hills Hall, in Kenyatta International Convention Centre, Nairobi, where oral submissions were also received. The Committee noted that the members of the public made several proposals for further amendments to the Bills.

The Committee thereafter, considered all the proposed amendments and came up with its recommendations for amendments to the Bill.

CHAPTER ONE

INTRODUCTION

The Health Bill, National Assembly Bills. No 14 of 2015

AN ACT of Parliament 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 service and health care service providers, health products and health technologies and for connected purposes.

CHAPTER TWO

SUBMISSIONS ON THE HEALTH BILL, NATIONAL ASSEMBLY BILLS. NO 14 OF 2015

The Committee received both oral and written memoranda from the public.
Attached is a matrix of what was submitted.

CHAPTER THREE

3.0 COMMITTEE RECOMMENDATIONS

The Committee upon deliberations recommends the following amendments:-

(Committee stage amendments) See attached document

APPENDICES

1. Minutes of the meetings
2. The Health Bill, National Assembly Bills. No 14 of 2015 Stakeholders Submissions
3. Matrix with Submissions from the Members of the Public
4. Committee Stage Amendments

11th July, 2016

The Clerk of the Senate,
Parliament Buildings,
NAIROBI.

**RE: COMMITTEE STAGE AMENDMENTS TO THE HEALTH BILL
(NATIONAL ASSEMBLY BILL NO. 14 OF 2015)**

NOTICE is hereby given that the Chairperson of the Senate Standing Committee on Health, intends to move the following amendments to the Health Bill, 2015, at the Committee Stage-

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

CLAUSE 7

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

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.

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.

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.

CLAUSE 24

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

CLAUSE 25

THAT clause 25 of the Bill be deleted.

CLAUSE 28

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

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.

CLAUSE 46

THAT clause 46 of the Bill be amended by deleting sub-clause (4).

CLAUSE 2

THAT clause 2 of the Bill be amended by-

- (a) deleting the interpretation of the word “abortion”; and
- (b) inserting the following new definition in the proper alphabetical sequence-

“death” means the permanent loss of capacity for consciousness and the loss of all brainstem functions;

Sen. Zipporah Kittony
Vice- Chairperson,
Standing Committee on Health.

**MINUTES OF THE NINTY FIRST SITTING OF THE STANDING
COMMITTEE ON HEALTH HELD ON TUESDAY 12TH JULY, 2016 AT
KICC 2ND FLOOR BOARD ROOM AT 10AM**

PRESENT

The Hon. Sen. Zipporah Kittony	- Vice Chair
The Hon. Sen. (Dr.) Wilfred Machage	- Member
The Hon. Sen. (Prof.) Wilfred Lesan	- Member
The Hon. Sen. Godliver Omondi	- Member

ABSENT WITH APOLOGY

The Hon. Sen. (Dr.) Mohamed Kuti	- Chairman
The Hon. Sen. Mvita Mshenga	- Member
The Hon. Sen. Abdirahman Hassan Ali	- Member
The Hon. Sen. Beth Mugo	- Member
The Hon. Sen. Catherine Mukiite	- Member

SENATE SECRETARIAT

Mr. Crispus Njogu	-Clerk Assistant
Ms. Josephine Kusinyi	- Legal Counsel
Dr. Christine Sagini	-Researcher

MIN. NO. SCH/319/2016: Preliminaries

The meeting was called to order at 10.15am and opened with a prayer. The agenda of the meeting was adopted after being proposed by Sen. Lesan and seconded by Sen. Omondi as follows:

1. Prayer
2. Adoption of the Agenda
3. Adoption of the Health Bill Report
4. Crisis at Isiolo Referral Hospital
5. Paralysis affecting Children in Busia
6. AOB & Adjournment

MIN. NO. SCH/320/2016: Adoption of the Health Bill Report

The Committee reviewed the report on the Health Bill (National Assembly Bills. No 14 of 2015) The report was adopted by the Committee as the true representation of what the Committee deliberated on the Health Bill. It was proposed by Sen. Lesan and Seconded by Sen. Omondi

MIN. NO. SCH/321/2016: Crisis at Isiolo Referral Hospital

The Committee discussed what was happening at Isiolo Referral Hospital. A most recent Incident was when the Governor of Isiolo interrupted an inspection being done by the County Commissioner and the hospital superintendent. The Committee was also informed that the Hospital currently has no drugs and people are dying. It was resolved to invite the Governor of Isiolo and the County Commissioner to inform the Committee of what was happening.

MIN. NO. SCH/322/2016: Paralysis affecting Children in Busia

The Committee discussed children in Busia who had been paralyzed after being injected in the sciatic nerve. It has been reported that the children are still suffering. The Committee resolved to find out from the County Health and the Ministry of Health what the status of the children is.

MIN. NO. SCH/323/2016: AOB

The Committee indicated that they would like to have a benchmarking trip to a jurisdiction that is devolved. It was resolved that a Committee work plan be tabled to determine when the best time to go would be without interfering with the Committee work.

MIN. NO. SCH/324/2016: Adjournment

There being no other business the meeting was adjourned at 10:57am

Confirmed:.......... Date:..........
Hon. Sen. Dr. Mohammed Kutu - Chairperson

**MINUTES OF THE EIGHTY NINTH SITTING OF THE STANDING
COMMITTEE ON HEALTH HELD ON THURSDAY 30TH JUNE, 2016 AT
KICC ROOM 307 AT 11AM**

PRESENT

The Hon. Sen. (Dr.) Wilfred Machage - Member **Chairing**
The Hon. Sen. (Prof.) Wilfred Lesan - Member
The Hon. Sen. Godliver Omondi - Member

ABSENT WITH APOLOGY

The Hon. Sen. (Dr.) Mohamed Kuti - **Chairman**
The Hon. Sen. Zipporah Kittony - **Vice Chair**
The Hon. Sen. Abdirahman Hassan Ali - Member
The Hon. Sen. Catherine Mukiite - Member
The Hon. Sen. Beth Mugo - Member
The Hon. Sen. Mvita Mshenga - Member

SENATE SECRETARIAT

Mr. Crispus Njogu - Clerk Assistant
Ms. Josephine Kusinyi - Legal Counsel
Dr. Christine Sagini - Researcher
Mr. Letolusi Louisa - Serjeant at Arms

MIN. NO. SCH/315/2016: Preliminaries

The meeting was called to order at 11.19am and opened with a prayer.
The agenda of the meeting was adopted after being proposed by Sen. Lesan
and seconded by Sen. Omondi as follows:

1. Prayer
2. Adoption of the Agenda
3. Committee Stage Amendments on the Health Bill,
4. AOB & Adjournment

MIN. NO. SCH/316/2016: Committee Stage Amendments

The legal counsel continued taking the Committee through Memoranda's submitted by the public on the Health Bill.

Some of the issues raised were section 5 of the bill that deals with establishment of The Kenya Health Human Resource Advisory Council. The Committee indicated that the council should just play an advisory role, nothing else. The Committee therefore recommended that anything other than advisory should be removed.

The Committee discussed the issue of hospital classification. The Committee indicated that Level 4 and Level 5 functionalities should be increased. Level 5 and Level 6 hospitals should have almost the same capacity other than research and teaching.

Level 4 hospitals should be led by a medical officer with 5 years' experience with post graduate training.

MIN. NO. SCH/317/2016: AOB

The Committee was informed of an Aids Conference taking place in Durban South Africa. It is scheduled from 16-22 July, 2016. The Committee will register for the conference and hope to get an invitation letter in before then. It was resolved that those who will go for the Conference are Sen. Wilfred Machage, Sen. Wilfred Lesan, and Sen. Godliver Omondi.

Members of the Committee were informed of proposal to have a conference with all 47 health CEC's and Ministry of Health. This objective of this conference is to streamline service delivery between the County and National Government.

MIN. NO. SCH/318/2016: Adjournment

There being no other business the meeting was adjourned at 12:47pm

Confirmed:.....*Mohammed Kuti*..... Date:.....*6/7/16*.....

Hon. Sen. Dr. Mohammed Kuti - Chairperson

**MINUTES OF THE EIGHTY EIGHTH SITTING OF THE STANDING
COMMITTEE ON HEALTH HELD ON TUESDAY 28TH JUNE, 2016 AT
KICC ROOM 307 AT 11AM**

PRESENT

The Hon. Sen. (Dr.) Wilfred Machage	- Member Chairing
The Hon. Sen. (Prof.) Wilfred Lesan	- Member
The Hon. Sen. Catherine Mukiite	- Member
The Hon. Sen. Beth Mugo	- Member
The Hon. Sen. Godliver Omondi	- Member
The Hon. Sen. Abdirahman Hassan Ali	- Member

ABSENT WITH APOLOGY

The Hon. Sen. (Dr.) Mohamed Kuti	- Chairman
The Hon. Sen. Zipporah Kittony	- Vice Chair
The Hon. Sen. Mvita Mshenga	- Member

SENATE SECRETARIAT

Mr. Crispus Njogu	-Clerk Assistant
Ms. Josephine Kusinyi	- Legal Counsel
Dr. Christine Sagini	-Researcher
Mr. Letolusi Louisa	-Serjeant at Arms

MIN. NO. SCH/310/2016: Preliminaries

The meeting was called to order at 11.15am and opened with a prayer. The agenda of the meeting was adopted after being proposed by Sen. Mukitte and seconded by Sen. Machage as follows:

1. Prayer
2. Adoption of the Agenda
3. Confirmation of previous minutes
4. Committee Stage Amendments on the Health Bill,
5. AOB & Adjournment

MIN. NO. SCH/311/2016: Confirmation of previous minutes

Minutes of the Eighty Sixth sitting were confirmed as the true records of the Committee proceedings. They were proposed by Sen. Machage and seconded by Sen. Mukitte.

Minutes of the Eighty Seventh sitting were confirmed as the true records of the Committee proceedings. They were proposed by Sen. Mukitte and seconded by Sen. Lesan.

MIN. NO. SCH/312/2016: Committee Stage Amendments

The legal counsel took the Committee through Memoranda's submitted by the public on the Health Bill.

Some of the issues raised were Definition of death, with reference to declaring somebody dead for the purposes of organ harvesting. The Committee Secretariat was tasked to use the World Health Organization definition of death.

The position of Director General was deliberated. The Committee agreed that it should be held by a doctor who is certified by the Kenya Medical Practitioners and Dentist Board. Directorates for the other medical professional will be created. They will include Nurses, psychology, pharmacy etc. They will be led by directors.

Emergency care is something deliberated upon. The Committee indicated that emergency care provision should be provided for in the bill and mechanism to pay for the care for those who are not able to pay.

The Committee discussed the functions and scheduling of hospitals in terms of levels. The Committee indicated that the functions of level 5 hospitals should be increased. Additionally for a hospital to move to level 6 there should a negotiated discussion between the county and national government.

The Committee also noted that human resources should be handled by the Counties and not national government.

Other issues raised is the standardization of medical services across the country.

MIN. NO. SCH/313/2016: AOB

The Committee was informed that The Cancer Prevention and Control Amendment Bill was in the order paper at the Committee stage. It was resolved that Se. Lesan would move the amendments on the Senate Floor.

Members of the Committee were informed of a half day retreat for all Senators at Crowne Plaza Hotel in Nairobi starting at 7:30am. The agenda for the retreat was review of Constitutional Bills currently in the Lands and Health Committee

MIN. NO. SCH/314/2016: Adjournment

There being no other business the meeting was adjourned at 12:47pm

Confirmed:.....*M. Kuti*..... Date:.....*6/7/16*.....

Hon. Sen. Dr. Mohammed Kuti - Chairperson

**MINUTES OF THE EIGHTY SEVENTH SITTING OF THE STANDING
COMMITTEE ON HEALTH HELD ON WEDNESDAY 15TH JUNE, 2016 AT
KICC SHIMBA HALL AT 11.00AM.**

PRESENT

The Hon. Sen. Zipporah Kittony	- Vice Chair
The Hon. Sen. (Dr.) Wilfred Machage	- Member
The Hon. Sen. Catherine Mukiite	- Member
The Hon. Sen. (Prof.) Wilfred Lesan	- Member
The Hon. Sen. Beth Mugo	- Member

ABSENT WITH APOLOGY

The Hon. Sen. (Dr.) Mohamed Kuti	- Chairman
The Hon. Sen. Mvita Mshenga	- Member
The Hon. Sen. Abdirahman Hassan Ali	- Member
The Hon. Sen. Godliver Omondi	- Member

SENATE SECRETARIAT

Mr. Crispus Njogu	-Clerk Assistant
Dr. Christine Sagini	-Researcher
Ms. Lucy Mwaniki	-Serjeant at Arms

MEMEBERS OF PUBLIC

See attached list

MIN. NO. SCH/307/2016: Preliminaries

The Vice- Chairperson of the Senate Health Committee called the meeting to order at 10.26am and led with an opening prayer. It was followed by introductions.

The agenda of the meeting was adopted after being proposed by Sen. Mukitte and seconded by Sen. Machage as follows:

1. Prayer
2. Adoption of the Agenda
3. Public Hearing on the Health Bill,
4. AOB & Adjournment

MIN. NO. SCH/308/2016: Public Hearing on the Health Bill

Members of the public submitted there Memoranda's on the Health Bill, 2015. Some of the major issues raised were. The position of the Director General should be open to all health professionals rather than doctors only. Policy priorities should be clearly spelt out rather than leaving them to an individual.

The Bill does not take care of transplantation. The Committee created in the Bill to supervise who does transplants and where should include lawyers and religious leaders The Bill also needs to re-define death. Death can be cause by ceasing of brain functions at which and once declared organs can be harvested. The bill should also incorporate those who may want to donate organs.

Levels 1,2,3 of hospitals should have an emergency component to them rather than only hospitals level 4 and above. Functions of emergency care are not provided for in the Bill.

With the position of Director General created, what is the role of Director of Medical Services?

User fees being left to discretion of the Counties.


The Structure of the Bill favours one side of professionals over others, and does not provide for health care delivery.

The Bill is not inclusive to for transgender people for purposes of sex re-assignment surgery.

Please see attached matrix on all submissions made

MIN. NO. SCH/309/2016: Adjournment

There being no other business, the meeting was adjourned at 1.30pm.

Confirmed:  Date:.....
Hon. Sen. Dr. Mohammed Kuti - Chairperson

MINUTES OF THE EIGHTY FOURTH SITTING OF THE STANDING COMMITTEE ON HEALTH HELD ON WEDNESDAY 11TH MAY, 2016 IN SECOND FLOOR KICC FROM 10.00AM.

PRESENT

The Hon. Sen. (Dr.) Mohamed Kuti	- Chairman
The Hon. Sen. Zipporah Kittony	- Vice Chair
The Hon. Sen. (Prof.) Wilfred Lesan	- Member
The Hon. Sen. (Dr.) Wilfred Machage	- Member
The Hon. Sen. Godliver Omondi	- Member

ABSENT WITH APOLOGY

The Hon. Sen. Beth Mugo	- Member
The Hon. Sen. Mvita Mshenga	- Member
The Hon. Sen. Catherine Mukiite	- Member
The Hon. Sen. Abdirahman Hassan Ali	- Member

SENATE SECRETARIAT

Mr. Crispus Njogu	-Clerk Assistant
Ms. Carolyne Cheruiyot	-Legal Counsel
Dr. Christine Sagini	-Researcher
Mr. Stephen Maru	-Serjeant at Arms

MIN. NO. SCH/291/2016: Preliminaries

The Chairperson of the Senate Health Committee called the meeting to order at 11.24am and led with an opening prayer.

The agenda of the meeting was adopted after being proposed by Sen. Machage and seconded by Sen. Lesan as follows:

1. Prayer
2. Adoption of the Agenda
3. House-keeping (confirmation of previous minutes)
 - a) **83 Minutes**
4. Legal Counsel Taking Committee through the Health Bill
5. Retreat to discuss legislation currently pending in the Committee

6. Legislation Pending in the Committee
 - a. Health Bill
 - b. Assisted Reproductive Technology Bill
 - c. Medical Practitioners and Dentist Amendment Bill
7. Potential Nurses Strikes
8. AOB & Adjournment

MIN. NO. SCH/292/2016: Confirmation of Previous Minutes

The Minutes of the 83rd Sitting of confirmed after being proposed by Sen. Lesan and seconded by Sen. Machage.

MIN. NO. SCH/293/2016: Brief on Health Bill from Legal Counsel

The Legal Counsel took the Committee through the Health Bill, 2015. Please see attached brief.

The Committee raised some of the following issues with the Bill. The Director General has been allocated powers to designate hospitals, there are too many regulatory bodies in the health sector, and Hospital administrators should have a clinical aspect rather than an administrative aspect.

The Committee indicated that additional deliberation will be done at the retreat organized by the Committee to review Bills in the Committee.

MIN. NO. SCH/294/2016: Retreat to Review Bills


The Committee was taken through a draft programme for the retreat scheduled from 15-18 May 2016. The retreat will be to review the Health Bill, Assisted Reproductive Technology Bill, Medical Practitioners and Dentist Amendment Bill with stakeholders in the health sector.

MIN. NO. SCH/295/2016: Ongoing Nurses Strike Country Wide

Members noted with concern the ongoing strikes in Counties around the Country. The committee resolved to invite Governors of the affected counties to a meeting with the Committee.

MIN. NO. SCH/296/2016: Adjournment

There being no other business, the meeting was adjourned at 12.30pm.

Confirmed:.......... Date: 8/6/16.....

Hon. Sen. Dr. Mohammed Kuti - Chairperson



REPUBLIC OF KENYA

PARLIAMENT

NATIONAL ASSEMBLY BILLS

(Bill No. 14 of 2015)

THE HEALTH BILL, 2016

(A Bill published in the Kenya Gazette Supplement No. 44 of 2015 and passed
by the National Assembly, on March 30th, 2016)

N.A. /B/No. 14/2015

THE HEALTH BILL, 2016
ARRANGEMENT OF CLAUSES

Clause

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AUTHORITY
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CONDUCT OF BUSINESS AND
AFFAIRS OF THE
COMMITTEE

THE HEALTH BILL, 2016

A Bill for

AN ACT of Parliament 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 service and health care service providers, health products and health technologies and for connected purposes.

ENACTED by the Parliament of Kenya, as follows—

PART I—PRELIMINARY

1. This Act may be cited as the Health Act, 2016 and shall come into operation upon the expiry of ninety days from the date of publication.

Short title and commencement.

2. In this Act unless the context otherwise requires—

Interpretation

“abortion” means termination of a pregnancy before the foetus is viable as an independent life outside the womb;

“alternative medicine” means complementary medicine and includes a broad set of health care practices that are not part of Kenya’s tradition and are not integrated into dominant health care system;

“Authority” means the Kenya Health Professions Oversight Authority established under section 46;

“Board” refers to the Governing Board of the Kenya Health Professions Oversight Authority;

“breastfeeding means the method of feeding an infant directly from the female breast;”

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

“Committee” means the National Research for Health Committee established under section 93;

“ Director-General” means the Director-General for health appointed under section 16;

“disaster” means but is not limited to an adverse situation or event, which overwhelms local capacity for response and recovery, necessitating external assistance;

“disease” refers to any physical or mental condition that causes pain, dysfunction, distress, social problems or death to the person afflicted or similar problems for those in contact with the person;

“e-Health” means the combined use of electronic communication and information technology in the health sector including telemedicine”;

“emergency treatment” refers to necessary immediate health care that must be administered to prevent death or worsening of a medical situation;

“expressing milk” means the acts of extracting human milk from the breast by hand or by pump into a container”

“health” refers to a state of complete physical, mental and social well-being and not merely the absence of disease or infirmity;

“health care professional” includes any person who has obtained health professional qualifications and licensed by the relevant regulatory body;

“health care provider” means a person who provides health care services and includes a health care professional;”

“health care services” means the prevention, promotion, management or alleviation of disease, illness, injury, and other physical and mental impairments in individuals, delivered by health care professionals through the health care system’s routine health services, or its emergency health services;

“health extension worker” means a health care professional working in health centres in rural and medically underserved areas, where they provide emergency treatments and a range of other health services to patients;

“health facility” means the whole or part of a public or private institution, building or place, whether for profit or not, that is operated or designed to provide in-patient or out-patient treatment, diagnostic or therapeutic interventions, nursing, rehabilitative, palliative, convalescent, preventative or other health service;

“ health system” means an organization of people,

institutions and resources, that deliver health care services to meet the health needs of the population, in accordance with established policies”;

“health technology” refers to the application of organized knowledge and skills in the form of devices, medicine, vaccines, procedures and systems developed to solve a health problem and improve the quality of life;

“human blood products” means any product derived or produced from blood, including plasma, sera, circulating progenitor cells, bone marrow progenitor cells and umbilical cord progenitor cells;

“informed consent” refers to a process of getting permission before conducting a health care prevention on a person;

“lactation stations” means private, clean, sanitary and well ventilated rooms or areas in the workplace where nursing mothers can wash up, breast feed or express their milk and hygienically preserve it;

“medical emergency” means an acute situation of injury or illness that poses an immediate risk to life or health of a person or has potential for deterioration in the health of a person or if not managed timely would lead to adverse consequences in the well-being;

“private health services” means provision of health services by a health facility that is not owned by the national or county governments and includes health care services provided by individuals, faith-based organizations and private health institutions;

“public good” means a good or service whose benefits may be provided to a group at no more cost than that required to provide for one person;

“public health services” means health services owned and offered by the national and county governments;

“referral” means the process by which a given health facility transfers a client service, specimen and client parameters to another facility to assume responsibility for consultation, review or further management;

“reproductive cloning of a human being” means the manipulation of genetic material in order to achieve the

reproduction of a human being and includes nuclear transfer or embryo splitting for such purpose;

“research for health” includes but is not limited to research which seeks to contribute to the extension of knowledge in any health related field, such as that concerned with the biological, clinical, psychological or social processes in human beings improved methods for the provision of health services; or human pathology; or the causes of disease; or the effects of the environment on the human body; or the development or new application of pharmaceuticals, medicines and other preventative, therapeutic or curative agents; or the development of new applications of health technology;

“risk” means probability or threat of damage, injury, liability, loss or any other negative occurrence caused by external or internal vulnerabilities that may be avoided through pre-emptive action;

“specialist” means a health professional who is specially trained in a certain branch of his or her profession related to specific services or procedures;

“telemedicine” refers to the provision of health care services and sharing of medical knowledge over distance using telecommunications and it includes consultative, diagnostic, and treatment services;

“therapeutic manipulation or cloning” means handling of genetic material of zygotic or embryonic cells in order to alter, for therapeutic purposes, the function of cells or tissues;

“tissues” shall include but not limited to the placenta, embryonic or foetal tissue, stem cells and umbilical cord; and

“traditional medicine” includes the knowledge, skills and practices based on the theories, beliefs and experiences indigenous to different cultures, whether explicable or not, used in the maintenance of health as well as in the prevention, diagnosis, improvement or treatment of physical and mental illness..

3. The objects of this Act are to—

Objects of the Act.

(a) establish a national health system which

encompasses public and private institutions and providers of health services at the national and county levels and facilitate in a progressive and equitable manner, the highest attainable standard of health services;

- (b) protect, respect, promote and fulfill the health rights of all persons in Kenya to the progressive realization of their right to the highest attainable standard of health, including reproductive health care and the right to emergency medical treatment;
- (c) protect, respect, promote and fulfill the rights of children to basic nutrition and health care services contemplated in Articles 43(1) (c) and 53(1) (c) of the Constitution;
- (d) protect, respect, promote and fulfill the rights of vulnerable groups as defined in Article 21 of the Constitution in all matters regarding health; and
- (e) recognize the role of health regulatory bodies established under any written law and to distinguish their regulatory role from the policy making function of the national government.

4. It is a fundamental duty of the State to observe, respect, protect, promote and fulfill the right to the highest attainable standard of health including reproductive health care and emergency medical treatment by *inter alia* —

Responsibility for health.

- (a) developing policies, laws and other measures necessary to protect, promote, improve and maintain the health and well-being of every person;
- (b) ensuring the prioritization and adequate investment in research for health to promote technology and innovation in health care delivery;
- (c) ensuring the realization of the health related rights and interests of vulnerable groups within society, including women, older members of society, persons with disabilities, children, youth, members of minority or marginalized communities and members of particular ethnic, religious or cultural communities;
- (d) ensuring the provision of a health service package

at all levels of the health care system, which shall include services addressing promotion, prevention, curative, palliative and rehabilitation, as well as physical and financial access to health care;

- (e) ensuring adequate investment in research for health to promote technology and innovation in health care delivery.

5. (1) Every person has the right to the highest attainable standard of health which shall include progressive access for provision of promotive, preventive, curative, palliative and rehabilitative services. Standard of health.

(2) Every person shall have the right to be treated with dignity, respect and have their privacy respected in accordance with the Constitution and this Act.

PART II—RIGHTS AND DUTIES

6. (1) Every person has a right to reproductive health care which includes— Reproductive health.

- (a) the right of men and women of reproductive age to be informed about, and to have access to reproductive health services including to safe, effective, affordable and acceptable family planning services;
- (b) the right of access to appropriate health-care services that will enable parents to go safely through pregnancy, childbirth, and the post-partum period, and provide parents with the best chance of having a healthy infant;
- (c) access to treatment by a trained health professional for conditions occurring during pregnancy including abnormal pregnancy conditions, such as ectopic, abdominal and molar pregnancy, or any medical condition exacerbated by the pregnancy to such an extent that the life or health of the mother is threatened. All such cases shall be regarded as comprising notifiable conditions.

(2) For the purposes of subsection (1) (c), the term “a trained health professional” shall refer to a health professional with formal medical training at the proficiency level of a medical officer, a nurse, midwife, or a clinical officer who has been educated and trained to proficiency in

the skills needed to manage pregnancy-related complications in women, and who has a valid license from the recognized regulatory authorities to carry out that procedure.

(3) Any procedure carried out under subsection (1) (a) or (1) (c) shall be performed in a legally recognized health facility with an enabling environment consisting of the minimum human resources, infrastructure, commodities and supplies for the facility as defined in the norms and standards developed under this Act.

7. (1) Every person has the right to emergency medical treatment. Emergency treatment.

(2) For the purposes of this section, emergency medical treatment shall include-

- (a) pre-hospital care;
- (b) stabilizing the health status of the individual; or
- (c) arranging for referral in cases where the health provider of first call does not have facilities or capability to stabilize the health status of the victim.

(3) Any health care provider who fails to provide emergency medical treatment while having ability to do so commits an offence and is liable upon conviction to a fine not exceeding one million shillings or imprisonment for a period not exceeding twelve months or both.

(4) Any medical institution that fails to provide emergency medical treatment while having ability to do so commits an offence and is liable upon conviction to a fine not exceeding three million shillings.

8. (1) Every health care provider shall inform a user or, where the user of the information is a minor or incapacitated, inform the guardian of the— Health information.

- (a) user's health status except in circumstances where there is substantial evidence that the disclosure of the user's health status would be contrary to the best interests of the user;
- (b) range of promotive, preventive and diagnostic

procedures and treatment options generally available to the user;

- (c) benefits, risks, costs and consequences generally associated with each option; and
- (d) user's right to refuse recommended medical options and explain the implications, risks, and legal consequences of such refusal.

(2) The health care provider concerned must, where possible, inform the user as contemplated in subsection (1) in a language that the user understands and in a manner which takes into account the user's level of literacy.

(3) Where the user exercises the right to refuse a treatment option, the health care provider may at its discretion require the user to confirm such refusal in a formal manner.

(4) In this section, the word "user" refers to any person who seeks or intends to seek medical care from a health care provider and the expression "health care provider" includes any health facility.

9. (1) No specified health service may be provided to a patient without the patient's informed consent unless- Consent.

- (a) the patient is unable to give informed consent and such consent is given by a person—
 - (i) mandated by the patient in writing to grant consent on his or her behalf; or
 - (ii) authorized to give such consent in terms of any law or court order;
- (b) the patient is unable to give informed consent and no person is mandated or authorized to give such consent, but the consent is given by the next of kin;
- (c) the provision of a health service without informed consent is authorized by an applicable law or court order;
- (d) the patient is being treated in an emergency situation;
- (e) failure to treat the user, or a group of people which includes the user, will result in a serious risk to

public health; or

- (f) any delay in the provision of the health service to the patient might result in his or her death or irreversible damage to his or her health and the patient has not expressly, or by implication or by conduct refused that service.

(2) A health care provider must take all reasonable steps to obtain the user's informed consent.

(3) For the purposes of this section "informed consent" means consent for the provision of a specified health service given by a person with legal capacity to do so and who has been informed as provided for in section 8 of this Act.

10. The national government, county governments and every organ having a role or responsibility within the National Health System, shall ensure that appropriate, adequate and comprehensive information is disseminated on the health functions for which they are responsible being cognizant of the provisions of Article 35 (1) (b) of the Constitution, which must include-

Information dissemination.

- (a) the types, availability and cost if any of health services;
- (b) the organization of health services;
- (c) operating schedules and timetables of visits;
- (d) procedures for access to the health services;
- (e) procedures for laying complaints;
- (f) the rights and duties of users and health care providers under this Act and as provided for in the applicable service charters; and
- (g) management of environmental risk factors to safeguard public health.

11. (1) Information concerning a user, including information relating to his or her health status, treatment or stay in a health facility is confidential except where such information is disclosed under order of court or informed consent for health research and policy planning purposes.

Confidentiality.

(2) Subject to the Constitution and this Act, no person may disclose any information contemplated in subsection

(1) unless—

- (a) the user consents to such disclosure in writing in the prescribed form;
- (b) a court order or any applicable law requires such disclosure; or
- (c) non-disclosure of the information represents a serious threat to public health.

(3) Any proposed disclosure of information under subsection 2 (c), shall be subject to regulations published by the Cabinet Secretary of health, from time to time

12. (1) The Rights and duties of healthcare providers shall include -

Healthcare providers.

- (a) not to be unfairly discriminated against on account of their health status;
- (b) the right to a safe working environment that minimizes the risk of disease transmission and injury or damage to the health care personnel or to their clients, families or property;
- (c) the right to refuse to treat a user who is physically or verbally abusive or who sexually harasses him or her except in an emergency situation where no alternative health care personnel is available;
- (d) the right to apply for and accept a salaried post in the public service or the private sector.

(2) All healthcare providers, whether in the public or private sector, shall have the duty —

- (a) to provide health care, conscientiously and to the best of their knowledge within their scope of practice and ability, to every person entrusted to their care or seeking their support;
- (b) to provide emergency medical treatment as provided for under section 7(2);
- (c) to inform a user of the health system, in a manner commensurate with his or her understanding, of his or her health status:

Provided that where this would be contrary to the best interests of the user, then in such cases, the requisite

information should be communicated to the next of kin or guardian as case may be.

(3) Notwithstanding the provisions of subsection (1) (a), the head of any health facility may impose conditions on the service that may be provided by a health care provider taking into account his or her health status.

13. A user of the health system has the duty, in the absence of any observable incapacity — Duty of users.

- (a) to adhere to the rules of a health facility when receiving treatment or using the health services provided by the establishment;
- (b) to adhere to the medical advice and treatment provided by the establishment;
- (c) to supply the healthcare provider with accurate information pertaining to his or her health status;
- (d) to cooperate with the healthcare provider;
- (e) to treat healthcare providers and health workers with dignity and respect;
- (f) if so requested, to sign a discharge certificate or release of liability if he or she refuses to accept or implement recommended treatment.

14. (1) Any person has a right to file a complaint about the manner in which he or she was treated at a health facility and have the complaint investigated appropriately. Complaints.

(2) The relevant national and county governments shall establish and publish the procedure for the laying of complaints within public and private health care facilities in those areas of the national health system for which they are responsible.

(3) The procedures for laying complaints shall—

- (a) be displayed by all health facilities in a manner that is visible for any person entering the establishment and the procedure must be communicated to users on a regular basis; and
- (b) be primarily handled by the head of the relevant facility or any person designated by the facility as responsible for handling user complaints.

(4) Every complainant under subsection (1) has a right to be informed, in writing and within a period of three months from the date the complaint was lodged, of the action taken or decision made regarding the complaint.

(5) Where a health facility or a regulatory body fails to resolve a complaint to the satisfaction of the complainant, the Authority shall take necessary action.

15. (1) The national government ministry responsible for health shall —

Duties of national government.

- (a) develop health policies, laws and administrative procedures and programmes in consultation with county governments and health sector stakeholders and the public for the progressive realization of the highest attainable standards of health;
- (b) develop and maintain an organizational structure of the Ministry at the national level comprising of technical directorates;
- (c) ensure the implementation of rights to health specified in the Bill of Rights, and more particularly the progressive realization of the right of all to the highest attainable standard of health including reproductive health care and the right to emergency treatment;
- (d) ensure, in consultation and collaboration with other arms of government and other stakeholders, that there is stewardship in setting policy guidelines and standards for human food consumption, dietetic services and healthy lifestyle;
- (e) offer technical support at all levels with emphasis on health system strengthening;
- (f) develop and implement measures to promote equitable access to health services to the entire population, with special emphasis on eliminating the disparity in realization of the objects of this Act for marginalized areas and disadvantaged populations;
- (g) develop and promote application of norms and standards for the development of human resources for health including affirmative action measures

- for health workers working in marginalized areas;
- (h) provide for medical audit of deaths with a special emphasis on maternal and neonatal deaths as a tool for the further development of obstetric and neonatal care;
 - (i) put in place intervention measures to reduce the burden of communicable and non-communicable diseases, emerging and re-emerging diseases and neglected diseases;
 - (j) develop, through regulatory bodies, standards of training and institutions providing education to meet the needs of service delivery;
 - (k) set guidelines for the designation of referral health facilities;
 - (l) through respective regulatory bodies to develop and ensure compliance on professional standards on registration and licensing of individuals in the health sector;
 - (m) coordinate development of standards for quality health service delivery;
 - (n) provide for accreditation of health services;
 - (o) coordinate through the established inter-governmental relations mechanisms all health aspects of disaster and emergencies;
 - (p) ensure through intergovernmental mechanisms that financial resources are mobilized to ensure uninterrupted access to quality health services country wide;
 - (q) promote the development of public and private health institutions to ensure their efficient and harmonious development and in the common interest work towards progressive achievement of the right to health;
 - (r) provide for the development and expansion of a countrywide national health information management system;
 - (s) facilitate all forms of research that can advance the interests of public health;

- (t) develop and manage the national and specialized health referral facilities;
 - (u) promote the use of appropriate health technologies for improving the quality of health care;
 - (v) provide policy guidelines and regulations for hospital waste management and conduct of environmental health impact assessment;
 - (w) collaborate in the common interest with the health authorities of other countries and with regional and international bodies in the field of health;
 - (x) establish an emergency medical treatment fund for emergencies to provide for unforeseen situations calling for supplementary finance;
 - (y) provide policy guidelines in public-private partnerships for health to enhance private sector investment; and
 - (z) provide policy and training, maintenance of standards and co-ordination mechanisms for the provision of emergency healthcare.
- (2) The Cabinet Secretary responsible for health in consultation through the established inter-governmental relations mechanisms shall make regulations on any matter where it is necessary or expedient in order—
- (a) to implement any provision of this Act; and
 - (b) to implement within Kenya measures agreed upon within the framework of any treaty, international convention or regional intergovernmental agreement to which Kenya is a party.

16. (1) There shall hereby be established the office of the Director-General for health.

Office of the
Director -General.

(2) The Director General for health shall be recruited by the Public Service Commission through a competitive process, vetted by Parliament and appointed by the President.

(3) A person appointed under subsection (2) must—

- (a) be a medical practitioner registered by the Medical

Practitioners and Dentists Board;

- (b) at least be a holder of a Masters degree in public health, medicine or any other health related field;
 - (c) have experience of at least ten years in management of health services, five of which must be at a senior management position; and
 - (d) meet the provisions of Chapter Six of the Constitution of Kenya.
- (4) The Director-General shall hold office for a term of five (5) years renewable once.

17. The Director-General shall—

Functions of the
Director-General.

- (a) be the technical advisor to the Government on all matters relating to health within the health sector;
- (b) be the technical advisor to the Cabinet Secretary of health;
- (c) be responsible for preventing and guarding against the introduction of infectious diseases into Kenya;
- (d) promote the public health and the prevention, limitation or suppression of infectious, communicable or preventable diseases within Kenya;
- (e) advice the two levels of Government on matters of national security on public health;
- (f) promote and facilitate research and investigations in connection with the prevention or treatment of human diseases;
- (g) prepare and publish reports and statistical or other information relative to the public health;
- (h) obtain and publish periodically information on infectious diseases and other health matters and such procurable information regarding epidemic diseases in territories adjacent to Kenya or in other Countries as the interests of public health may require;
- (i) provide guidelines for registration, licensing, certification and gazettement of all health facilities;
- (j) be responsible of internship program for health workers;

(k)supervise the directorates within the national Ministry of health; and(l) perform any other duties as may be assigned by the appointing authority and any other written law.

18. For the purposes of section 15 (1) (b) of this Act, the directorates shall be formed by the Cabinet Secretary in consultation with the Director General based on policy priority areas.

Directorates.

19. (1) There shall be established with respect to every county, a county executive department responsible for health, which shall be in line with the health policy guidelines for setting up county health system and shall in all matters be answerable to the Governor and the County Assembly subject to the provisions of the Constitution and of any applicable written law.

County health system.

(2) There shall be established the office of the County Director of health who shall be a technical advisor on all matters of health in the County.

(3) The County Director of health shall be recruited through a competitive process in conformity with the rules and regulations set from time to time by the County Public Service Board.

(4) A person appointed a County Director of health shall—

- (a) be a medical practitioner registered by the Medical Practitioners and Dentists Board;
- (b) be at least a holder of a Masters degree in public health, medicine or any other health related discipline; and
- (c) have at least five (5) years' experience in management of health services.

(5) The County Director of health shall-

- (a) be the technical advisor on all matters relating to health within the County;
- (b) be the technical advisor to the County Health Executive Committee member and the Governor;
- (c) supervise all health services within the County;
- (d) promote the public health and the prevention,

limitation or suppression of infectious, communicable or preventable diseases within the County;

- (e) prepare and publish reports and statistical or other information relative to the public health within the County;
- (f) report periodically to the Director-General for health on all public health occurrences including disease outbreaks, disasters and any other health matters; and
- (g) perform any other duties as may be assigned by the appointing authority and any other written law.

20. The county executive department responsible for health shall, in furtherance of the functions assigned to it under Fourth Schedule of the Constitution and in consultation through the established inter-governmental relations mechanisms be responsible for—

Duties of county executive department for health.

- (a) implementing the national health policy and standards as laid down by national government Ministry responsible for health;
- (b) service delivery, including the maintenance, financing and further development of those health services and institutions that have been devolved to it;
- (c) coordination of health activities in order to ensure complementary inputs, avoid duplication and provide for cross-referral, where necessary to and from institutions in other counties;
- (d) facilitating registration, licensing and accreditation of providers and health facilities respectively according to standards set nationally by the national government department responsible for health and relevant regulatory bodies;
- (e) designation of county referral hospitals according to criteria agreed upon by the intergovernmental health coordinating mechanism;
- (f) developing and implementing, in consultation with the Salaries and Remuneration Commission, such

policies as may be necessary to guarantee the staffing of the public health service in marginal areas including taking into account the use of equalization fund;

- (g) procuring and managing health supplies;
- (h) maintaining standards of environmental health and sanitation as laid down in applicable law;
- (i) providing access and practical support for monitoring standards compliance undertaken within the county by the national government department responsible for health, the Authority and professional regulatory bodies established under any written law;
- (j) providing access and practical support for technical assistance, monitoring and evaluation, research for health by the national and county government department responsible for health;
- (k) developing supplementary sources of income for the provision of services, in so far as these are compatible with the applicable law;
- (l) making due provision and develop criteria to compensate health care facilities for debts arising through failure to secure payment for bills for non-payment of treatment of indigent users;
- (m) reporting, according to standards established by law, on activities, development and the state of finance within the county health services;
- (n) making known to the public at all times the health facilities through which generalized or specialized services are available to them;
- (o) developing and promoting public participation in the planning and management of local health facilities so as to promote broad ownership;
- (p) ensuring and coordinating the participation of communities in the governance of health services at the county level so as to promote a participatory approach in health care governance.

21. The National Health System shall work in a manner that respects the distinct levels of government,

Coordination.

while respecting the principles of cooperation and coordination as outlined in this Act and in legislation regulating the relationships and functions of the county and national government.

PART III—PUBLIC HEALTH FACILITIES

22. The national and county governments shall ensure the progressively equitable distribution throughout the country of such publicly owned health institutions, including hospitals, health centers, pharmacies, clinics and laboratories, as are deemed necessary for the promotive, preventive and rehabilitative health services.

Public health facilities.

23. Notwithstanding the provisions of section 66 and subject to any other law regulating public-private partnerships, nothing under this Act shall prevent the national and county governments from entering into public-private partnerships for the purpose of establishing and deepening health service provision.

Public private partnership.

24. Without prejudice to the distribution of health functions and services between the national and county levels of government as set out in Fourth Schedule of the Constitution, the national Government shall manage and be responsible for—

Retention of service provision.

- (a) any public health institution classified as a national referral facility under this Act;
- (b) any institution or health facility engaged in such specialized health activities as can only be provided effectively and efficiently at the national level;
- (c) any institution or service dependent for its function on expertise that is a shared resource as classified from time to time in regulations under this Act
- (d) laboratories and other institutions designated as serving a national rather than a regional purpose;
- (e) regulation of health products and health technologies including assessment, licensing and control of commercial and industrial activities;
- (f) facilitation through inter-governmental institutions,

procurement and supply chain management of public health goods including vaccines, pharmaceutical and non-pharmaceuticals for the purpose of ensuring control of highly infectious and communicable health conditions, putting measures for quality assurance and standards as well as measures for guarding against resistance strains in the interest of public health; and

(g) any health care function or service that is not otherwise assigned to the county government.

25. The technical classification of levels of health care shall be as set out in the First Schedule.

Classification of levels of health care.

PART IV—KENYA HEALTH SECTOR INTER-GOVERNMENTAL CONSULTATIVE FORUM

26. (1) There is established a Health Sector Inter-Governmental Consultative Forum, in line with the provisions of the Inter-Governmental Relations Act, and any applicable law.

Establishment of forum.
No. 2 of 2012

(2) The Forum shall comprise of—

(a) the Director-General for health or a designated representative; and

(b) each County Director of health or a designated representative.

27. (1) The Forum shall—

Purpose of the Forum.

(a) develop criteria and framework for determining matters requiring inter-governmental consultation; and

(b) develop inter-governmental agreements for joint implementation of any activities for health service delivery.

28. (1) The Forum shall meet at least twice a year.

Meetings of the Forum.

(2) The Forum shall regulate the procedures of its meetings.

29. The Forum shall regulate the conduct and regulation of the business and affairs of the Forum.

Conduct of Business.

PART V—ESTABLISHMENT OF THE KENYA
HEALTH HUMAN RESOURCE ADVISORY
COUNCIL

30. (1) There is established a Kenya Health Human Resource Advisory Council which shall consist of—

Establishment of
the Council.

- (a) a Chairperson, who shall be appointed by the President;
- (b) the Principal Secretary for the time being responsible for matter relating to health or a representative designated by the Principal Secretary;
- (c) one person who holds a master's degree in public health nominated by the Council of Governors;
- (d) the Attorney General or a representative designated by the Attorney General;
- (e) the Director-General for health or a representative designated by the Director-General;
- (f) one representative nominated by the Public Service Commission;
- (g) one person nominated by the Inter-governmental Consultative Council;
- (h) one person nominated by the County Public Service Boards;
- (i) three persons nominated by the public universities, private universities and mid-level institutions; and
- (j) the Chief Executive Officer.

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

- (a) suing and being sued;
- (b) acquiring, holding and disposing of movable and immovable property; and

- (c) doing or performing all such other things or acts as may be lawfully done by a body corporate.

31. The Council shall review policy and establish uniform norms and standards for—

Functions of the Council.

- (a) posting of interns to National Government and County Government facilities;
- (b) inter county transfer of healthcare professionals;
- (c) transfer of healthcare professionals from one level of Government to another;
- (d) the scheme of service for health professionals;
- (e) management and rotation of specialists; and
- (f) the maintenance of a master register for all health practitioners in the counties.

32. The Council shall have all powers necessary for the proper performance of its functions under this Act and in particular, but without prejudice to the generality of the foregoing, the Council shall have power to—

Powers of the Council.

- (a) control, supervise and administer the assets of the Council in such manner and for such purpose as best promotes the purposes for which the Council is established;
- (b) determine the provision to be made for capital and recurrent expenditure and for the reserves of the Council;
- (c) receive any grants, gifts, donations or endowments and make legitimate disbursements therefrom;
- (d) enter into association with other bodies or organizations within or outside Kenya as the Council may consider desirable or appropriate and in furtherance of the purpose for which the Council is established;
- (e) open a banking account or banking accounts for the funds of the Council; and

- (f) invest any funds of the Council not immediately required for its purposes as may be permitted by law for the time being in force.

33. (1) The Public Service Commission shall, through an open and transparent process, recruit a Chief Executive Officer who shall be appointed by the Council.

Chief Executive
Officer.

(2) A person is qualified for appointment as the Chief Executive Officer to the Council if the person—

- (a) holds at least a degree in medicine from a university recognized in Kenya, and is registered by the Kenya Medical Practitioners and Dentist Board;
- (b) has at least ten years' experience in the practice of medicine, five of which shall be experience at a senior management level; and
- (c) meets the requirements of Chapter Six of the Constitution.

(3) The Chief Executive Officer shall serve the Council for a term of five years and shall be eligible, subject to satisfactory performance of his or her functions, for reappointment for one further term.

(4) A person shall not be appointed as the Chief Executive Officer or an officer of the Council if such person has any direct or indirect interest in the health sector.

(5) The Chief Executive Officer may be removed from office for gross misconduct, violation of the Constitution or any other law or any other ground as may be provided for in the contract of employment.

(6) The Chief Executive Officer shall be responsible for the day to day operations of the Council.

34. (1) The conduct and regulation of the Business and affairs of the Council shall be as provided in the Second Schedule.

Conduct of
business and
affairs of the
Council.

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

35. The Council may, by resolution generally or in any particular case, delegate to any committee of the Council or

Delegation by the
Council.

to any member, officer, employee or agent of the Council, the exercise of any of the powers or the performance of any of the functions or duties of the Council under this Act.

36. (1) The chairperson and the members of the Council, other than the *ex-officio* members, shall hold office for a term of five years and shall be eligible for re-appointment for one further term.

Tenure of office.

(2) The members of the Council shall be appointed in such a manner that the respective expiry dates of their terms of office fall at different times.

37. (1) The Council may competitively appoint suitably qualified staff as may be necessary for the efficient performance of the functions of the Council.

Staff of the Council.

(2) In the appointment of the staff of the Council, the Council shall comply with the values and principles set out in the Constitution and in particular—

- (a) afford adequate and equal opportunities for appointment and advancement at all levels, of men and women, members of all ethnic groups and persons with disabilities;
- (b) exercise transparency in the recruitment process; and
- (c) ensure competitive recruitment and selection on the basis of personal integrity, competence and suitability.

38. The staff of the Council shall serve on such terms of service as the Council, on recommendation of the Salaries and Remuneration Commission may determine.

Terms and conditions of service.

39. (1) A member of the Council or any person working under the instructions of the Council shall not be personally liable for any act or default of the Council done or omitted to be done in good faith in the course of carrying on the functions of, or exercising of powers conferred upon the Council under this Act.

Protection from liability.

(2) Despite subsection (1), the Council shall not be relieved of its liability to pay compensation to any person for any injury to him or her, his or her property or to any of his or her interest caused by the exercise of any power conferred by this Act or by failure, whether wholly or

partially, of any works.

40. The funds of the Council shall comprise—

Funds of the
Council.

- (a) such funds as may be appropriated by the Parliament.
- (b) such monies or assets as may accrue to or vest in the Council in the performance of its functions or exercise of its powers under this Act or any other written law; and
- (c) all monies from any other source provided for, donated or lent to the Council.

41. The Financial year of the Council shall be the period of twelve months ending on the thirtieth day of June in every year.

Financial year.

42. (1) The Council shall, at least three months before the commencement of each financial year, cause to be prepared estimates of revenue and expenditure of the Council for that financial year.

Annual estimates.

(2) The annual estimates shall make provisions for all the estimated expenditure of the Council for the financial year concerned and in particular shall provide for the —

- (a) payment of salaries, allowances and other charges in respect of the members of staff or agents of the Council;
- (b) payment of pensions, gratuities and other charges in respect of members and other staff of the Council;
- (c) proper maintenance of buildings and grounds of the Council;
- (d) acquisition, maintenance, repair and replacement of the equipment and other movable property of the Council; and
- (e) funds to meet future or contingent liabilities in respect of retirement benefits, insurance or replacement of buildings or equipment, or in respect of such other matter as the Council may deem appropriate.

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

(4) No expenditure shall be incurred for the purposes of the Council except in accordance with the annual estimates approved under subsection (3), or in pursuance of an authorizations by the Cabinet Secretary.

43. (1) The Council shall cause to be kept all proper books of records of accounts of the income, expenditure, assets and liabilities of the Council.

Accounts and
audit.

(2) The accounts of the Council shall be audited and reported upon in accordance with the provisions of the Public Audit Act

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(3) The Council shall, within three months from the end of the financial year to which the accounts relate, submit to the Auditor-General the accounts of the Council together with ---

- (a) a statement of income and expenditure during the year;
- (b) a statement of the assets and liabilities of the Council as of the last day of that year;
- (c) a cash flow statement for the financial year; and
- (d) any other statements and accounts that may be necessary to fully disclose the financial position of the Council.

44. The Council may, subject to the approval of the Cabinet Secretary for the time being responsible for matter relating to finance invest any of the funds of the Council in securities in which, for the time being, trustees may by law invest funds or any other securities which the Treasury may, from time to time approve for that purpose.

Investment of
funds.

**PART VI—ESTABLISHMENT OF THE KENYA
HEALTH PROFESSIONS OVERSIGHT
AUTHORITY**

45. (1) There is established an Authority known as the Kenya Health Professions Oversight Authority. Establishment of the Authority.

(2) The Authority shall be a body corporate with perpetual succession and a common seal, and shall in its corporate mane be capable of—

- (a) suing and being sued;
- (b) acquiring, holding and disposing of movable and immovable property; and
- (c) doing or performing all such other things or acts as may be lawfully done by a body corporate.

46. (1) The Authority shall be administered by a Board which shall consist of— Board of the Authority.

- (a) a chairperson appointed by the Cabinet Secretary who shall be a health professional who meets the requirements of Chapter six of the Constitution of Kenya;
- (b) the Principal Secretary in the Ministry for the time being responsible for health or a designated representative;
- (c) the Director-General for health or a designated representative;
- (d) the Attorney General or a designated representative;
- (e) two representatives nominated by the health regulatory bodies established under an Act of Parliament;
- (f) two representatives nominated by the Council;
- (g) two representatives nominated by the health professional associations registered by the Registra of Societies who are not regulated or registered by any regulatory body;
- (h) one representative from the private sector appointed by the Cabinet Secretary;

- (i) one representative from consumer rights bodies appointed by the Cabinet Secretary;
- (j) the Chief Executive Officer, appointed by the Authority, through a competitive process and who shall be the secretary to the Authority.

(2) The Authority shall be supported by a Secretariat which shall be headed by the Chief Executive Officer.

(3) The powers of the Authority shall be vested in the advisory Board.

(4) The business and affairs of the Authority shall be conducted in accordance with the Second Schedule.

47. The Board shall have all powers necessary for the proper performance of its functions under this Act and in particular, but without prejudice to the generality of the foregoing, shall have power to—

Powers of the Board.

- (a) Control, supervise and administer the assets of the Authority in such manner and for such purpose as best promotes the purposes for which the Authority is established;
- (b) determine the provisions to be made for capital and recurrent expenditure and for the reserve of the Authority;
- (c) receive any grants, gifts, donations, or endowments and make legitimate disbursements therefrom;
- (d) enter into association with other bodies or organizations within and outside Kenya as the Authority may consider desirable or

appropriate and in furtherance of the purpose for which the Authority is established.

- (e) open a banking account or banking accounts for the funds of the Authority; and
- (f) invest any funds of the Authority not immediately required for its purposes as provided under section 59.

48. The functions of the Authority shall be to—

Functions of the Authority.

- (a) maintain a duplicate register of all health professionals working within the national health system;
- (b) promote and regulate inter-professional liaison between statutory regulatory bodies;
- (c) coordinate joint inspections with all regulatory bodies;
- (d) receive and facilitate the resolution of complaints from patients, aggrieved parties and regulatory bodies;
- (e) monitor the execution of respective mandates and functions of regulatory bodies recognised under an Act of Parliament;
- (f) arbitrate disputes between statutory regulatory bodies, including conflict or dispute resolution amongst Boards and Councils; and
- (g) ensure the necessary standards for health professionals are not compromised by the regulatory bodies.

(2) The Cabinet Secretary shall, in consultation with the Authority make regulations generally for the better carrying out of the provisions of this section and without limiting the generality of the foregoing, the Cabinet Secretary shall make regulations to prescribe—

- (a) the manner and form of coordinating joint inspections with all regulatory bodies;
- (b) the procedure for receipt and facilitation of the resolution of complaints from patients aggrieved parties and regulatory bodies;

- (c) the manner of monitoring the execution of respective mandates and functions of regulatory bodies recognized under an Act of Parliament;
- (d) the mechanisms for arbitration of disputes between statutory regulatory bodies, including conflict or dispute resolution amongst Boards and Authorities; and
- (e) mechanisms to ensure that the necessary standards for health professionals are not compromised by the regulatory bodies.

49. (1) The Public Service Commission shall, through an open and transparent process, recruit a Chief Executive Officer who shall be appointed by the Authority.

Chief Executive
Officer.

(2) A person is qualified for appointment as the Chief Executive Officer to the Authority if the person—

- (a) holds at least a degree in medicine from a university recognized in Kenya and is a registered by the Kenya Medical Practitioners and Dentist Board;
- (b) has at least ten years' experience in the practice of medicine, five of which shall be experience at a senior management level; and
- (c) meets the requirements of Chapter Six of the Constitution.

(3) The chief Executive Officer shall serve the Authority for a term of five years and shall be eligible, subject to satisfactory performance of his or her functions, for re-appointment for one further term.

(4) A person shall not be appointed as the Chief Executive Officer or an officer of the Authority if such person has any direct or indirect interest in the health sector.

(5) The chief Executive Officer may be removed from office for gross misconduct, violation of the Constitution or any other law or any other ground

as may be provided for in the contract of employment.

(6) The Chief Executive Officer shall be responsible to the Board for the day to day operations of the Authority.

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

Conduct of business and affairs of the Authority.

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

51. The Authority may, by resolution generally or in any particular case, delegate to any committee of the Authority or to a member, officer, employee or any agent of the Authority, the exercise of any of the powers or the performance of any of the functions or duties of the Authority under this Act.

Delegation by the Authority.

52. (1) The Board may competitively appoint suitably qualified staff as may be necessary for the efficient performance of the functions of the Board.

Staff of the Authority.

(2) In appointment of the staff of the Board, the Board shall comply with the values and principles set out in the Constitution and in particular—

- (a) afford adequate and equal opportunities for appointment and advancement at all levels, of men and women, members of all ethnic groups and persons with disabilities;
- (b) exercise transparency in the recruitment process; and
- (c) ensure competitive recruitment and selection on the basis of personal integrity, competence and suitability.

53. The staff of the Board shall serve the Board on such terms of service as the Board, on recommendation of the Salaries and Remuneration Commission may determine.

Terms and conditions of service.

54. (1) A member of the Board, or an officer, employee or agent of the Authority or any person acting under their direction is not liable for any matter or things if

Protection from liability.

that matter or thing is done in good faith for executing the functions, powers or duties of the Authority.

(2) Despite subsection (1), the Board shall not be relieved of its liability to pay compensation to any person for any injury to him or her, his or her property or to any of his or her interest caused by the exercise of any power conferred by this Act or by failure, whether wholly or partially, of any works.

55. The funds of the Authority shall comprise—

Funds of the Authority.

- (a) such funds as may be appropriated by Parliament.
- (b) such monies or assets as may accrue to or vest in the Authority in the performance of its functions or the exercise of its powers under this Act or any other written law; and
- (c) All monies from any other source provided for, donated or lent to the Authority.

56. The financial year of the Authority shall be the period of twelve months ending on the thirtieth day of June in every year.

Financial year.

57. (1) The Board shall, at least three months before the commencement of each financial year, cause to be prepared estimates of revenue and expenditure of the Authority for that financial year.

Annual estimates.

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

- (a) payment of salaries, allowances and other charges in respect of the members of staff or agents of the Authority;
- (b) payment of pensions, gratuities and other charges in respect of members and other staff of the Authority;
- (c) proper maintenance of buildings and grounds of the Authority;
- (d) acquisition, maintenance, repair and replacement of the equipment and other

movable property of the Authority; and

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

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

(4) No expenditure shall be incurred for the purposes of the Authority except in accordance with annual estimates approved under subsection (3), or in pursuance of an authorization by the Cabinet Secretary.

58. The Board may, subject to the approval of the Cabinet Secretary for the time being responsible for matter relating to finance invest any of the funds of the Authority in securities in which, for the time being, trustees may by law invest funds or in any other securities which Treasury may, from time to time approve for that purpose.

Investment of funds.

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

Accounts and Audit

(2) The Accounts of the Authority shall be audited and reported upon in accordance with the provisions of the Public Audit Act.

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(3) The Board shall, within three months from the end of the financial year to which the accounts relate, submit to the Auditor-General the accounts of the Authority together with —

- (a) a statement of income and expenditure during the year;
- (b) a statement of the assets and liabilities of

- the Authority as of the last day of that year;
- (c) a cash flow statement for the financial year;
 - (d) any other statements and accounts that may be necessary to fully disclose the financial position of the Authority.

60. (1) The obligation to inspect, monitor and evaluate the standard of performance in all the services regulated and professionals engaged in the health sector, both public and private shall be undertaken by the respective regulatory bodies provided that they are not in conflict with the functions of the Authority as stipulated in this Act or under any other written law.

Relationship with other regulatory bodies.

(2) For the avoidance of doubt the regulatory bodies referred to in subsection (1) shall include—

- (a) the Clinical Officers Authority established under the Clinical officers Act; Cap. 260.
- (b) the Nursing Council of Kenya established under the Nurses Act; Cap. 257.
- (c) the Kenya Medical Laboratory Technicians and Technologists Board established under the Medical Laboratory Technicians and Technologists Act; Cap. 253A.
- (d) the Medical Practitioners and Dentists Board established under the Medical Practitioners and Dentists Act; Cap. 253.
- (e) the Radiation Protection Board established under the Radiation Protection Act; Cap. 243.
- (f) the Pharmacy and Poisons Board established under the Pharmacy and Poison Act; Cap. 244.
- (g) the Council of Institute of Nutritionists and Dieticians established under the Nutritionists and Dieticians Act; Cap. 253B.
- (h) the Public Health Officers and Technicians Council established under the Public Health Officers (Training, Registration and Licensing) Act; and No. 12 of 2013.

- (i) any other body as may be prescribed by the Cabinet Secretary under this Act.

61. Any health professionals seeking to form a professional regulatory body must adhere to the criteria prescribed by the Cabinet Secretary in consultation with the Authority.

Formation of professional bodies.

PART VII—REGULATION OF HEALTH PRODUCTS AND HEALTH TECHNOLOGIES

62. There shall be established by an Act of Parliament, a single regulatory body for regulation of health products and health technologies.

Establishment of a single regulatory body for health products and technologies.

63. (1) The regulatory body shall —

Functions of the regulatory body.

- (a) licence health products and health technologies;
- (b) licence manufacturers and distributors of health products;
- (c) conduct laboratory testing and inspection of manufacturing, storage and distribution facilities of health products and technologies;
- (d) control of clinical trials;
- (e) conduct advertising and promotion, post marketing surveillance for quality, safety and disposal of health products and health technologies ;
- (f) regulate contractors for medical devices and physical security for products including radioactive material and biological products.

(2) The classes of products governed by legislation shall extend to therapeutic feeds and nutritional formulations.

64. Legislation under section 62 shall provide for the granting of marketing approval only by a technically competent body after appropriate assessment has established that such a product meets generally recognized standards and approval may be made subject to conditions, notably with respect to the conduct and content of promotion and advertising.

Conditions.

65. (1) No person, firm or institution may engage in

Licences.

one or more of the activities specified in section 633(1) whether by way of trade or otherwise, unless one has a valid licence granted by the single regulatory body established under this Part.

(2) Any person, firm or institution in the possession of such a licence shall display the same at a conspicuous place and shall produce the same for inspection when required to do so by any officer from the single regulatory body established under this Act.

66. Any medicine, vaccine or other health product and technology intended for sale to members of the public shall be eligible for licensing only if-

Standards.

- (a) after due assessment, it is found to achieve the therapeutic or the intended effect it claims to possess or which may reasonably be attributed to it;
- (b) it is sufficiently safe under the normal conditions of use;
- (c) it is made and packaged according to satisfactory standards.

67. (1) The procurement for the public health services of health products and technologies shall be undertaken in line with the Public Procurement and Disposal Act as well as the inter-governmental arrangements for medicine and medical products agreed upon where the Kenya Medical Supplies Authority is the primary provider

Procurement of health products and technologies.

(2) The classes of products procured by Kenya Medical Supplies Authority shall extend to therapeutic feeds and nutritional formulations.

(3) The Kenya Medical Supplies Authority may be the point of first call for procurement of health products at the county national referral level and it shall endeavor to establish branches within each county at such locations as it may determine.

(4) The national government shall provide guidelines for the procurement, distribution and management of health products and technologies including essential medicines, laboratory chemicals and reagents and non-pharmaceuticals at all levels of the national health system.

PART VIII—PROMOTION AND
ADVANCEMENT OF PUBLIC AND

ENVIRONMENTAL HEALTH

68. (1) The National health system shall devise and implement measures to promote health and to counter influences having an adverse effect on the health of the people including—

Public and
environmental
health.

- (a) interventions to reduce the burden imposed by communicable and non-communicable diseases and neglected diseases, especially among marginalized and indigent population;
 - (b) interventions to promote healthy lifestyle including physical activity, counter the excessive use of alcoholic products and the adulteration of such products, reduce the use of tobacco and other addictive substances and to counter exposure of children and others to tobacco smoke;
 - (c) the promotion of supply of safe foodstuffs of sufficient quality in adequate quantities and the promotion of nutritional knowledge at all population levels;
 - (d) general health education of the public; and
 - (e) a comprehensive programme to advance reproductive health including—
 - (i) effective family planning services;
 - (ii) implementation of means to reduce unsafe sexual practices;
 - (iii) adolescence and youth sexual and reproductive health;
 - (iv) maternal and neo- natal and child health;
 - (v) elimination of female genital mutilation; and
 - (vi) maternal nutrition and micro nutrient supplementation.
- (2) The national health system shall ensure that measures for managing environmental risk factors to curtail occurrence and distribution of diseases are put in place and implemented. In particular such measures shall target—
- (a) the reduction of disease burden arising from poor environmental hygiene, sanitation, occupational exposure and environmental pollution;

(b) the reduction of morbidity and mortality of waterborne, foodborne and vector transmitted diseases, and mitigate the health effects of climate change;

(c) the reduction of morbidity, mortality, prolonged hospital stays, long-term disabilities, antibiotic resistance that emanate from health care acquired infections;

(d) the strengthening of national and county capacity to address or forestall transmission of diseases of international concern; and

(e) building community capacity in providing solutions to public health challenges.

69. (1) Pursuant to meeting the objects set out in section 68, the national government department of health shall formulate national strategic and operation policies that shall provide for measures that include—

Policies.

- (a) ensuring and promoting the provision of quarantine especially in ports, borders and frontiers health services;
- (b) ensuring that food and water available for human consumption are hygienic and safe;
- (c) ensuring houses, institutions, hospitals and other public places maintain environment to the highest level of sanitation attainable to prevent, reduce or eliminate environmental health risks;
- (d) developing risk-based, sustainable, integrated food safety systems, occupational health practices, water safety systems, appropriate housing, and vector and vermin control;
- (e) strengthening infection prevention and control systems including health care waste management in all health facilities;
- (f) mobilizing resources including human resources for action;
- (g) public education and participation;
- (h) promoting the public health and the prevention, limitation or suppression of preventable diseases

- including communicable and non-communicable, diseases neglected within Kenya;
- (i) ensuring provision of environmental health and sanitation mechanisms to prevent and guard against the introduction of infectious disease into Kenya from outside;
 - (j) dissemination of public health guidelines to counties in regard to matters affecting the public health from the environment and sanitation;
 - (k) promoting disease surveillance in connection with the prevention of environmental, food, water and sanitation related diseases; and
 - (l) addressing all issues pertaining to environmental hygiene and sanitation.
 - (m) developing guidelines for the conduct of health impact assessment.

70. The Public Health Act is amended by deleting the expression "Director of Medical Services" and substituting therefor the expression "Director-General for health", wherever it appears.

Amendment of
Cap. 242.

71. (1) All employers shall in the workplace establish lactation stations which shall be adequately provided with necessary equipment and facilities including hand washing equipment, refrigerates or appropriate cooling facilities, electrical outlets for breast pumps, a small table, comfortable seats the standard of which shall be defined by the Ministry responsible for matters relating to health.

Lactation stations
in the workplace.

(2) The lactation station shall not be located in the rest rooms.

(3) All employers shall take strict measures to prevent any direct or indirect form of promotion, marketing and or selling of infant formula and or breast substitutes within the lactation stations.

72. (1) An employer shall grant all nursing employees break intervals in addition to the regular times off for meals to breastfeed or express milk.

Provision of break
intervals for
nursing
employees.

(2) The time intervals referred to in sub section (1) shall include the time it takes an employee to get to and from the lactation station and shall be counted as

compensable hours worked provided that such intervals shall not be more than a total of one hour for every eight hour working period.

PART IX—MENTAL HEALTH

73. There shall be established by an Act of Parliament, legislation to—

Mental health.

- (a) protect the rights of any individual suffering from any mental disorder or condition;
- (b) ensure the custody of such persons and the management of their estates as necessary;
- (c) establish, manage and control mental hospitals having sufficient 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 with mental health.

PART X—TRADITIONAL AND ALTERNATIVE MEDICINE

74. (1) The national government department of health shall formulate policies to guide the practice of traditional and alternative medicine.

Promotion of practice.

(2) The county executive department for health shall ensure implementation of any policies thereto.

75. (1) There shall be established regulatory body by an Act of Parliament, to regulate the practice of traditional medicine and alternative medicine.

Regulation of practice on traditional medicine.

(2) The regulatory body shall, maintain a register at both the national and county levels.

(3) The regulatory body in consultation with the National government department for health shall set the minimum standards of practice for traditional medicine and alternative medicine.

(4) The regulatory body shall be responsible for registration, licensing and standards compliance of practice in traditional and alternative medicine.

76. The regulatory body shall institute measures for documentation and mapping of traditional and alternative medicine practice and the county executive departments for health shall facilitate the mapping of traditional and alternative medicine.

Documentation and mapping.

77. The national government department for health shall, in consultation with key stakeholders develop policies for standardization of traditional and alternative medicine practice.

Standardization.

78. The charges levied on the practice of traditional medicine shall be approved by the Authority in consultation with statutory bodies.

Charges.

79. The national government department of health shall develop policy guidelines for referral mechanisms and a system of referrals from practitioners of traditional and alternative medicine to conventional health facilities and may prescribe regulations for incidental and connected purposes which shall be implemented by county departments.

Referral.

PART XI—HUMAN ORGANS, HUMAN BLOOD, BLOOD PRODUCTS, OTHER TISSUES AND GAMETES

80. (1) No person shall remove tissue or gametes from a human being for transplantation in another human being or carry out the transplantation of such tissue or gametes except—

Human organs transplantation.

(a) in a duly authorized health facility for that purpose; and

(b) on the written authority of—

(i) the medical practitioner in charge of clinical services in that health facility or any other medical practitioner authorized by him or her; or

(ii) in the case where there is no medical practitioner in charge of the clinical services at that health facility, a medical practitioner authorized by the person in charge of the hospital; or

(iii) the person from whom the tissue or gametes

are removed, in the prescribed manner.

(2) The medical practitioner mentioned in subsection (1) (b) shall not be the lead participant in a transplant for which he or she has granted authorization under that subsection.

(3) The Cabinet Secretary shall prescribe through regulations-

- (a) the criteria for the approval of organ transplant facilities; and
- (b) the procedural measures to be applied for such approval.

(4) (a) Any person who contravenes the provision of this section or fails to comply therewith or who charges a fee for a human organ commits an offence.

- (b) Any person convicted of an offence under paragraph (a) is liable on conviction to a fine not exceeding ten million shillings or to imprisonment for a period not exceeding ten years or to both a fine and imprisonment.

81. (1) (a) A person who is competent to make a will may— Making of wills.

- (i) in the will; or
- (ii) in a document signed by him or her in the presence of at least two competent witnesses who are present when he or she signs and signed by them in his or her presence; or
- (iii) in an oral statement made in the presence of at least two competent witnesses,

donate his or her body or any specified tissue thereof to be used after his or her death, or give consent to the post mortem examination of his or her body, for any purpose provided for in this Act.

- (b) A person who makes a donation as contemplated in paragraph (a) must nominate an institution or a person contemplated under this Act.
- (c) If no donee is nominated in terms of paragraph (b), the donation shall be null and void.

(d) Paragraph (b) does not apply in respect of an organ donated for the purposes contemplated in section 80(1) and the donee of such organ must be determined as provided in section 80(2).

(2) In the absence of a donation under subsection (1) (a) or of a contrary direction given by a person whilst alive and upon death the person's body remains unclaimed under any other law, the spouse or spouses, elder child, parent, guardian, eldest brother or sister of that person, in the specific order mentioned, may, after that person's death, donate the body or any specific tissue of that person to an institution or a person contemplated in this subsection.

(3) (a) The Cabinet Secretary may, after the death of a person and if none of the persons contemplated in subsection (2) can be located, donate the body or part or any specific tissue of that person to an institution or a person contemplated in section 81(2).

(b) The Cabinet Secretary shall only allow the donated tissue to be used if all the prescribed steps have been taken to locate the persons contemplated in subsection (2).

82. (1) A donation under section 83 may only be made for—

Donation purposes.

- (a) the purposes of the training of students in health sciences;
- (b) the purposes of health research;
- (c) the purposes of the advancement of health sciences;
- (d) therapeutic purposes, including the use of tissue in any living person; or
- (e) the production of a therapeutic, diagnostic or prophylactic substance.

(2) This Part does not apply to the—

- (a) preparation of the body of a deceased person for the purposes of embalming;
- (b) making of incisions in the body for the infusion thereof by a preservative; or
- (c) restoration of any disfigurement or mutilation of

the body before its burial.

83. A donor may, prior to the transplantation of the relevant organ into the donee, revoke a donation in the same way in which it was made or, in the case of a donation by way of a will or other document, also by the intentional destruction of that will or document.

Revocation.

84. (1) Subject to subsection (2), a post mortem examination of the body of a deceased person may be conducted if -

Postmortem.

- (a) the person when alive gave consent thereto;
- (b) the spouse(s), child, guardian, brother or sister of the deceased, in the specific order mentioned, gave consent thereto; or such an examination is necessary for determining the cause of death.

(2) A post mortem examination may not take place unless—

- (a) the medical practitioner in charge of clinical services in the hospital or authorized institution or of the mortuary in question, or any other medical practitioner authorized by such practitioner; or
- (b) in the case where there is no medical practitioner in charge of clinical services, a medical practitioner authorized by the person in charge of such hospital or authorised institution, authorizes the post mortem examination in writing and in the prescribed manner.

85. (1) There shall be established by an Act of Parliament, a body to be known as the Kenya National Blood Transfusion Service.

Kenya National
Blood Transfusion
Service.

(2) The legislation contemplated under subsection (1) shall provide for among other things, the institutional organization of blood transfusion service within the Republic of Kenya.

(3) The Service shall be charged with the mandate of developing a comprehensive and coordinated national blood service based on voluntary non remunerated blood donations so as to guarantee availability of adequate and safe blood.

(4) The Service shall establish settings and

mechanisms that will enable it superintend, regulate and provide blood transfusion services in the Republic of Kenya as required by this Act or any other written law.

(5) Any person who contravenes the provisions of this section or who fails to comply therewith is guilty of an offence and is liable on conviction to a fine not exceeding one million Shillings or to imprisonment for a term not exceeding five years or to both fine and imprisonment.

PART XII—HEALTH FINANCING

86. (1) The department of health shall ensure progressive financial access to universal health coverage by taking measures that include—

Health finance.

- (a) developing mechanisms for an integrated national health insurance system including making provisions for social health protection and health technology assessment;
 - (b) establishing in collaboration with the department responsible for finance oversight mechanism to regulate all health insurance providers;
 - (c) developing policies and strategies that ensure realization of universal health coverage;
 - (d) determining, during each financial period and in consultation with individual county authorities, cost sharing mechanisms for services provided by the public health system without significantly impeding the access of a particular population groups to the system in the areas concerned;
 - (e) defining in collaboration with the department responsible for finance, public financing of health care framework, including annual allocations towards reimbursing all health care providers responding to disasters and emergencies as contemplated under this Act.
 - (f) ensuring, that all pharmaceutical and non-pharmaceutical products correspond to Kenya Medical Supplies Authority market prices; and
 - (g) defining in collaboration with the department responsible for finance, a standard health package financed through prepayment mechanisms including last expense.
- (2) The Ministry of health shall, in consultation through the established inter-governmental relations mechanisms—

- (a) provide a framework for collaboration with the ministries responsible for finance, planning and any other relevant department to secure health care for vulnerable groups and indigents;
- (b) provide a framework for examining means of optimizing usage of private health services as a result of relieving the burden carried by the publicly financed system; and
- (c) provide a framework for establishing a harmonized common mechanism for coordinating planning and financing and monitoring and evaluation within the health sector.

87. (1) The National Treasury shall, facilitate the opening and maintenance of bank accounts by the county treasuries, for purposes of operationalizing disbursements of conditional grants, donation and any other monies designated for health as may be prescribed, in accordance with the provisions of the Constitution and the Public Finance Management Act.

Bank account.

Act No. 18 of 2012

(2) Funds identified and designated for health in subsection (1) shall not be appropriated for any other purpose.

PART XIII—THE PRIVATE SECTOR PARTICIPATION

88. (1) The Cabinet Secretary shall pursue strategies conducive to the development and regulation of private health services and their attunement to the needs of the population.

Private health services.

(2) The public and private health services and facilities shall complement each other in the provision of comprehensive and accessible health care to the people.

89. (1) Private entities shall be permitted to operate hospitals, clinics, laboratories and other institutions in the health sector, subject to licensing by the appropriate regulatory bodies.

Licensing of private entities to operate hospitals, clinics, etc.

(2) The standards to be met in order to qualify for the issue of an operational licence under this section and the conditions that may be attached to such a licence shall be

as defined in regulations issued under this Act by the Cabinet Secretary.

90. Private health workers appropriately qualified to practice any health profession shall similarly be entitled to practice their profession in Kenya, subject to licensing by the appropriate regulatory bodies

Private health workers.

91. (1) Institutions licensed under section 88 and private health workers licensed under section 89 shall irrespective of any specific conditions attached to such a licence be bound—

Duty of licensees.

(a) to permit and facilitate inspection at any time by the Authority and regulatory bodies;

(b) to provide emergency services in their field of expertise required or requested either by individuals, population groups or institutions, without regard to the prospect or otherwise of direct financial reimbursement;

(2) Institutions and private health workers shall nevertheless be entitled to compensation under similar terms as contemplated under this Act.

92. (1) Where appropriate, and subject to the provisions of the Public Private Partnerships Act, the Cabinet Secretary and the County Governors shall be entitled to enter into partnership agreements with companies operating in the private sector in order to develop specific services or facilities that will serve the needs of public health.

Partnership agreements. Act No 15 of 2013.

(2) Counties or individual facilities may similarly enter into agreements of this type with the private sector subject to the provisions of the Public Private Partnerships Act.

No. 15 of 2013

PART XIV—PROMOTION AND CONDUCT OF RESEARCH FOR HEALTH

93. (1) There shall be established by the Cabinet Secretary, a National Health Research Committee which shall be a technical committee.

Establishment of the National Health Research Committee.

(2) The membership of the Committee shall be as provided for under section 94 and shall consist of not more

than eleven members appointed by the Cabinet Secretary.

94. The membership of the Committee established under this section shall as much as possible reflect ethnic, gender, county and regional balance and shall include membership drawn from the following —

Membership.

- (a) the chairperson who shall be a distinguished health researcher and renowned in a health discipline;
- (b) one representative from Kenya Medical Research Institute;
- (c) one representative from the National Commission for Science, Technology and Innovation;
- (d) head of the directorate of the Ministry of health responsible for research and development;
- (e) one representative from the Authority;
- (f) two representatives from public universities;
- (g) one representative from private universities
- (h) one research expert with orientation to traditional and alternative medicine;
- (i) one research expert with orientation in clinical trials; and
- (j) one distinguished bio-medical science researcher.

95. (1) The term of office of the Chairperson shall be five years, renewable for one further term of five years.

Term of office.

(2) The chairperson may resign through a letter addressed to the Cabinet Secretary.

(3) A member of the Committee shall hold office for a term of three years, renewable for one further term of three years.

(4) A member of the Committee may resign through a letter addressed to the Cabinet Secretary.

96. (1) The Committee shall make recommendations on the development on the national research for health policy and on the various priorities to be accorded in the area of research for health in the light of current knowledge and needs, recognized priorities and economic resources.

Functions of the Committee.

(2) In identifying research for health priorities, the

Committee shall give due regard to—

- (a) the burden of disease;
 - (b) the cost-effectiveness of interventions aimed at reducing the burden of disease;
 - (c) the availability of human and institutional resources for the implementation of an intervention at the level closest to the affected communities;
 - (d) the health needs of vulnerable groups such as women, older persons, children and people with disabilities;
 - (e) the health needs of communities;
 - (f) national security; and
 - (g) emerging issues on health.
- (3) The Committee shall have the responsibility to –
- (a) determine the extent of research for health to be carried out by public and private health authorities whether national or international;
 - (b) ensure that research for health agenda and research resources focus on priority health problems;
 - (c) develop and advise the Cabinet Secretary on the application and implementation of an integrated national policy and strategy for health research;
 - (d) ensure that the intellectual property benefits arising from any health research conducted in the country are commensurately enjoyed by all involved parties;
 - (e) ensure resource mobilization or budget allocation for the National Research Fund for the established research for health priorities;
 - (f) create a framework for linking research outcomes into policy and legislation
 - (g) set up a national research database; and
 - (h) enhance capacity building and strengthening in the research for health activities.

(4) The Committee shall execute its functions through the head of the directorate of the Ministry of health responsible for research and development who shall be its secretary.

97. (1) The Kenya Medical Research Institute established under the Science and Technology Act shall review its programmes to optimally attune to the health interests of the population and the overall programme of health research.

Institute.
Cap. 250

(2) The Committee shall collaborate with other research organizations to make recommendations for the formulation of the national health policy.

98. Except as may be provided in the Fourth Schedule, the Committee may regulate its own procedure.

Procedures.

99. (1) Where medical and scientific research is to be conducted on human subjects, details shall in all cases be submitted as per the regulations articulated under the Commission for Science, Technology and Innovation established under the Science and Technology Act.

Research
Approval.

Cap. 250

(2) The Committee shall set standards for ethical clearance on health research approvals.

100. (1) Where research or experimentation is to be conducted on a minor for a therapeutic purpose, the research or experimentation may only be conducted—

Minors.

- (a) if it is in the best interest of the minor;
- (b) in such manner and on such conditions as may be prescribed; and
- (c) with the informed written consent of the parent or guardian of the minor.

(2) Where research or experimentation is to be conducted on a minor for a non-therapeutic purpose, the research or experimentation may only be conducted —

- (a) in such manner and on such conditions as may be prescribed by the Committee; and
- (b) with the informed written consent of the parent or guardian of the minor.

(3) Parliament shall enact legislation to give full effect to the provisions of this Part.

101. Having regard to the necessity of both scientific and policy research in the field of health in Kenya, a portion of not less than thirty per cent of the National Research Fund shall be allocated for health research.

Research budget.

102. Notwithstanding the responsibility of national government under section 92 of this Act, non-governmental and international organizations may cooperate with research institutions including the Kenya Medical Research Institute, universities and health institutions with approval from the Committee in providing support for promotion and conduct of health research.

Donor support
and collaborative
arrangements

PART XV—E—HEALTH

103. E- Health shall be a recognized mode of health service.

E-health.

104. The Cabinet Secretary shall, within three years of the operation of this Act, ensure the enactment of legislation that provides for among other things-

E-legislation.

- (a) administration of health information banks including interoperability framework, data interchange and security;
- (b) collection and use of personal health information;
- (c) management of disclosure of personal health information;
- (d) protection of privacy;
- (e) business continuity, emergency and disaster preparedness;
- (f) health service delivery through M-health, E-learning and telemedicine;
- (g) E-waste disposal; and
- (h) health tourism.

105. (1) The Ministry of health shall facilitate the establishment and maintenance of a comprehensive integrated health information system.

Health
information
System.

(2) The Cabinet Secretary in consultation with the Director General may, for the purpose of creating, maintaining or adapting databases within the national health information system desired in subsection (1),

prescribe categories or kinds of data for submission, collection and the manner and format in which and by whom the data is to be compiled or collated and submitted to the Ministry of health.

(3) The Cabinet Secretary shall, in consultation with the Director General, prescribe policy guidelines for establishment of an integrated comprehensive health information management system, which shall include—

- (a) an integrated comprehensive health information system relating to the national government health functions;
- (b) an integrated comprehensive health information system relating to every county and in respect of county functions;
- (c) the consolidation and harmonization of health information obtained under paragraph (a) and paragraph (b);
- (d) the minimum standards applicable for establishment and maintenance of health information systems;
- (e) a guide on the minimum indices to be captured by each county health information system;
- (f) the mechanism for ensuring inter-connectivity between each county information system and the national system;
- (g) the guiding principles for management and administration of health information banks; and
- (h) any other information on health services, including sources of health financing, human resources available in health sector.

(4) All health care providers shall—

- (a) establish and maintain a health information system as part of the health information system as specified under subsection (1); and
- (b) ensure compliance with the provision of paragraph

(a) as a condition necessary for the grant or renewal of annual operating licenses.

(5) Any health care provider that neglects or fails to comply with the provision of subsection (3)(a) of this section commits an offence and on conviction shall be liable to imprisonment for a term of six months or a fine of five hundred thousand shillings or to both.

(6). Nothing in the foregoing precludes a county government from making laws with regards to health information system for that county and the city, urban and municipal areas within that county.

PART XVI—INTER-DEPARTMENTAL COLLABORATION

106. (1) While the Cabinet Secretary responsible for health shall bear primary responsibility for this Act, the respective levels of government and other agencies of government shall collaborate, consult and enter into agreements for the better carrying out of the provisions of this Act.

Collaboration.

(2) Without prejudice to sub section (1), the respective levels of government shall collaborate in the implementation of this Act, development or regulations and where necessary in the adaptation of legislation.

107. (1) The establishment, management and maintenance of institutions for the training of all categories of health professionals shall be the subject of national policy providing for collaboration, consultation and cooperation between the state department responsible for education, science, technology and innovation and the Commission for Higher Education.

Training.

(2) The Cabinet Secretary shall issue administrative guidelines and regulations on professional post basic training of all health workers for implementation in line with the national training policy for health professionals.

(3) All specialists shall be treated as a national asset in order to sustain internship training and specialist services to ensure standards and equity.

(4) Regulatory bodies shall ensure that the training of health professionals meet the set standards and quality.

108. Subject to section 106, the fields in which the need for collaboration, consultation and cooperation shall be necessary include, though not exclusively, those that deal with matters relating to—

Fields of collaboration.

- (a) health workers welfare;
- (b) health aspects of environmental protection;
- (c) issues of animal health;
- (d) professional education and training;
- (e) public education;
- (f) financing of health services; and
- (g) bio-medical sciences.

PART XVII—TRANSITIONAL AND MISCELLANEOUS PROVISIONS

109. (1) Except to the extent that this Act expressly provides to the contrary, all rights and obligations, however arising, of the Government and subsisting immediately before the effective date shall continue as rights and obligations of the national and county governments as assigned under this Act.

Existing laws.

(2) All law in force immediately before the effective date continues in force and shall be construed with the alterations, adaptations, qualifications and exceptions necessary to bring it into conformity with this Act.

(3) If, with respect to any particular matter—

- (a) a law that was in effect immediately before the effective date assigns responsibility for that matter to a particular State organ or public officer; and
- (b) a provision of this Act that is in effect assigns responsibility for that matter to a different State organ or public officer,

the provisions of this Act shall prevail to the extent of the conflict.

110. (1) Any public officer appointed by the Public Service Commission in exercise of its constitutional powers and functions before the coming to effect of this Act and is serving under the National Government and in a county before the constitution of that county government shall be

Public service.

deemed to be in the service of the county on secondment from national government with their terms of service as at that date.

(2) The officer's terms of service including remuneration, allowances and pension or other benefits shall not be altered to the officer's disadvantage but to his or her advantage.

(3) The officer shall not be removed from the service except in accordance with the terms and conditions applicable to the officer as at the date immediately before the establishment of the county government or in accordance with the law applicable to the officer at the time of commencement of the proceedings for the removal.

(4) Any public officer appointed by the Public Service Commission in exercise of its constitutional powers and functions before the coming to effect of this Act and is providing health services assigned to county government under the Fourth Schedule of the Constitution and is serving in a county on the date of the constitution of that county government shall be deemed to be in the service of the county government with their terms of service as at that date and—

(a) the officer's terms of service including remuneration, allowances and pension or other benefits shall not be altered to the officer's disadvantage but only to his or her advantage; and

(b) the officer shall not be removed from the service except in accordance with the terms and conditions applicable to the officer as at the date immediately before the establishment of the county government or in accordance with the law applicable to the officer at the time of commencement of the proceedings for the removal.

(6) Every public officer holding or acting in a public office to which the commission had appointed the officer as at the date of the establishment of the county government shall discharge those duties in relation to the relevant functions of the county government or national government as the case may be.

(7) The Authority acting in consultation with the Public Service Commission, the County Public Service

Board and the National Ministry and county executive department responsible for health shall facilitate the redeployment, transfers and secondment of staff to the national and county governments.

(8) The provision under subsection (7) shall not preclude the County Public Service Board or other lawful body from promoting or appointing the officer to another position.

(9) The period of secondment under subsection (1) shall cease upon the transfer of a public officer from the national government to a county government or upon the release of an officer by the county government to the national government.

(10) Appointment of a public officer by the Public Service Commission includes appointment of a public officer on powers delegated by the Public Service Commission.

111.(1) A person convicted of an offence under this Act for which no penalty is provided shall, on conviction, be liable to a fine not exceeding two million shillings or to imprisonment for a term of three months, or both,

General penalty.

(2) An act or commission which is an offence under this Act or any regulations made hereunder shall, if done by a body corporate, be deemed to be an offence committed by every director, secretary or manager of the body corporate unless proved that the offence was committed without consent or connivance of the director, secretary or manager and that he or she exercised all such diligence to prevent the commission of the offence as he ought to have exercised having regard to the nature of his functions and circumstances of the case.

(3) If an offence under this Act or any regulations made hereunder is committed by a partner in a firm, every person who, at the time of the commission of the offence, was a partner in that firm, or was purporting to act in that office shall be deemed to have committed the offence, unless there is proof that the offence was committed without the consent or connivance of the partner and that he exercised all such diligence to prevent the commission of the offence as he ought to have exercised having regard to the nature of his functions and the circumstances of the

case.

112. The Cabinet Secretary in consultation with the Director General shall make regulations generally for the better carrying out of the provisions of this Act and without limiting the generality of the foregoing, the Cabinet Secretary may make regulations for—

Regulations.

- (a) the fees to be paid to access services in a public health facility;
- (b) the norms and standards for health service delivery;
- (c) specified types of protective clothing and the use, cleaning and disposal of such clothing;
- (d) co-operation and interaction between private health care providers and private health establishments on the one hand and public health care providers and public health establishments on the other;
- (e) returns, registers, reports, records, documents and forms to be completed and kept by national referral institutions and county health institutions, public health facilities and private health facilities;
- (f) communicable and non-communicable diseases;
- (g) notifiable medical conditions;
- (h) rehabilitation;
- (i) emergency medical services and emergency medical treatment;
- (j) health nuisances and medical waste;
- (k) the import and export of pathogenic micro-organisms;
- (l) health research;
- (m) health technology;
- (n) the national health information system;
- (o) the documentation of traditional medicines and a database of herbalists;
- (p) the rendering of forensic pathology, forensic medicine and related laboratory services, including

- the provision of medico-legal mortuaries and medico-legal services;
- (q) the procurement of health products and health technologies; and
 - (r) anything which may be prescribed under this Act.

FIRST SCHEDULE (s. 25)**TECHNICAL CLASSIFICATION OF LEVELS OF HEALTHCARE DELIVERY****LEVEL 1: COMMUNITY HEALTH SERVICES**

Functions—

- (a) Facilitates individuals, households and communities to carry out appropriate healthy behaviours;
- (b) Provides agreed health services;
- (c) Recognizes signs and symptoms of conditions requiring referral;
- (d) Facilitates community diagnosis, management and referral.

Note: The In-charge is the community health extension worker.

LEVEL 2: DISPENSARY/CLINIC

Functions-

- (a) This is a health facility with no in-patient services and provides consultation, treatment for minor ailments;
- (b) Provides rehabilitative services;
- (c) Provision of preventive and promotive services.

Note: The In-charge is a nurse or clinical officer.

LEVEL 3: HEALTH CENTRE

Functions—

- (a) It provides out-patient care;
- (b) Provision of limited emergency care;
- (c) Maternity for normal deliveries;
- (d) Laboratories, oral health and referral services;
- (e) Provision of preventive and promotive services;
- (f) In-patient observations.

Note: The In-charge is the clinical officer or medical officer with at least two years managerial experience.

LEVEL 4: PRIMARY HOSPITAL

Functions-

- (a) Clinical supportive supervision to lower level facilities;
- (b) Referral level out-patient care;
- (c) In-patient services;
- (d) Emergency obstetric care and oral health services;
- (e) Surgery on in-patient basis;
- (f) Client health education;
- (g) Provision of specialized laboratory tests;
- (h) Radiology service;
- (i) Proper case management of referral cases through the provision of four main clinical specialties (i.e internal medicine, general surgery, gynaecobstetrics and paediatrics) by general practitioners backed by appropriate technical devices;
- (j) Proper counter referral;
- (k) Provision of logistical support to the lower facilities in the catchment area;
- (l) Coordination of information flow from facilities in the catchment area.

Note: The In-charge is a registered medical practitioner with a Master's degree in a health related field.

LEVEL 5: SECONDARY HOSPITAL

Functions—

- (a) Provision of specialized services;
- (b) Training facilities for cadres of health workers who function at the primary care level (paramedical staff);
- (c) Serves as internship centre for all staff, up-to medical officers;

Note: The In-charge is a registered medical practitioner with a Masters degree in a health related field.

LEVEL 6: TERTIARY HOSPITAL

Functions—

- (a) Provides highly specialized services. These include—
- (i) general specialization;
 - (ii) discipline specialization; and
 - (iii) geographical/regional specialization including highly specialized healthcare for area/regional specialization;
- (b) Research centre, provides training and research services for issues of national importance.

Note:

1. The In-charge is a registered medical practitioner with a Masters degree in a health related field and with training and experience of over ten (10) years in senior management.
2. Level 6 shall be National Referral Hospitals and established in every County.
3. Facilities from levels 2-5 can be upgraded or downgraded by the Director-General based on a set criteria.

SECOND SCHEDULE (S. 34)
PROVISIONS RELATING TO THE CONDUCT OF BUSINESS
AND AFFAIRS OF THE COUNCIL

1. A member other than an *ex-officio* member may—
- Vacation of
office.

- (a) At any time resign from office by notice in writing, in the case of the Chairperson, to the President, and in the case of any other member, to the Cabinet Secretary;
- (b) Be removed from office by the President or the Cabinet Secretary, as the case may be, if the member—
 - (i) has been absent from three consecutive meetings of the Council without the permission of the Council;
 - (ii) is adjudged bankrupt or enters into a composition scheme or arrangement with his or her creditors;
 - (iii) is convicted of an offence involving dishonesty or fraud;
 - (iv) is convicted of a criminal offence and sentenced to imprisonment for a term exceeding six months or to a fine exceeding ten thousand shillings;
 - (v) is incapacitated by prolonged physical and mental illness;
 - (vi) is found to have acted in a manner inconsistent with the aim and objectives of this Act;
 - (vii) fails to comply with the provisions of this Act relating to disclosures; or
 - (viii) is otherwise unable or unfit to discharge his or her functions as a member of the Council.

2. (1) The Council shall hold at least four meetings in every financial year and not more than four months will lapse between one meeting and the next.

Meetings.

(2) Meetings shall be convened by the Chairperson or in his or her absence by the vice-chairperson.

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

(4) The Chairperson shall preside over all the meetings of the Council or in his or her absence, the meetings shall be presided over by the vice-chairperson or in both of their absences, by a person elected by the Council at the meeting for that purpose.

(5) A decision of the Council shall be by a majority of the members present and voting and, in the case of an equality of votes; the person presiding at the meeting shall have a second or casting vote.

(6) The first order of business of the Council shall be to elect a Vice Chairperson.

3. The quorum for the conduct of business of the Council shall be half of the members, unless a unanimous decision is reached, decisions shall be by a majority vote of members present, and in the case of an equality of votes, the chairperson or the person presiding shall have a casting vote. Quorum.

4. Minutes of all meetings shall be kept and entered in books kept for that purpose. Minutes.

5. (1) If a member is directly or indirectly interested in any matter before the Council and is present at the meeting of the Council at which the matter is the subject of consideration, he or she shall, at the meeting and as soon as practicable after the commencement, disclose that fact and shall be excluded at the meeting at which the member is being considered. Disclosure of interest.

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

6. The Chairperson and members of the Council shall be paid such allowances as the Cabinet Secretary in consultation with the Salaries and Remuneration Commission shall determine. Allowances of the Council.

7 (1) The Council shall operate under the supervision of the Cabinet Secretary. Powers of the Cabinet Secretary.

(2) Where the Council fails to maintain any prescribed standard in the fulfilment of its functions under this Act,

the Cabinet Secretary may give general or special directions to the Council describing the extent of the failure and stating the steps required to remedy the situation.

THIRD SCHEDULE (s. 50)

PROVISIONS RELATING TO THE CONDUCT OF BUSINESS AND AFFAIRS OF THE AUTHORITY

1. (1) The Authority shall hold at least four meetings in every financial year and not more than four months will elapse between one meeting and the next. Meetings.

(2) Meetings shall be convened by the Chairperson or in his absence by the vice-chairperson.

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

(4) A meeting shall be presided over by the Chairperson, or in his absence by the vice-chairperson or in their absence, by a person elected by the Board at the meeting for that purpose.

(5) A decision of the Board shall be by a majority of the members present and voting and, in the case of an equality of votes, the person presiding at the meeting shall have a second or casting vote.

(6) The first order of business of the Board shall be to elect a vice-chairperson.

2. The quorum for meeting shall be five members. Quorum.

3. Minutes of all meetings shall be kept and entered in books kept for that purpose. Minutes.

4. A member of the Authority who has a direct or indirect personal interest in a matter being considered or to be considered by the Board shall as soon as reasonably practicable after the relevant facts concerning the matter have come to his knowledge, disclose the nature of his interest to the Board. Conflict of interest.

5. A disclosure of interest in a matter shall be recorded in the minutes of the meeting of the Board Disclosure of interest by members of the Board.

and the member shall not be present while that matter is being dealt with by the Board and shall not take part in any deliberations or vote relating to the matter.

6. The Authority shall pay the members of the Board such allowances and expenses as are determined by the Cabinet Secretary.

Remuneration of members of the Board.

FOURTH SCHEDULE 98)

(S.

PROVISIONS AS TO THE CONDUCT OF BUSINESS AND AFFAIRS OF THE COMMITTEE

1. (1) The Committee shall hold at least four meetings in every financial year and not more than four months will elapse between one meeting and the next.

Meetings.

(2) Meetings shall be convened by the Chairperson or in his absence by the vice-chairperson.

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

(4) The Chairperson shall preside over all the meetings of the Committee or in his absence, the meetings shall be presided over by the vice-chairperson or in both their absences, by a person elected by the Committee at the meeting for that purpose.

(5) A decision of the Committee shall be by a majority of the members present and voting and, in the case of an equality of votes, the person presiding at the meeting shall have a second or casting vote.

(6) The first order of business of the Committee shall be to elect a vice-chairperson.

2. The quorum for meeting shall be five members.

Quorum.

3. Minutes of all meetings shall be kept and entered in books kept for that purpose.

Minutes.

4. A member of the Committee who has a direct or indirect personal interest in a matter being considered or to be considered by the Committee shall as soon as reasonably practicable after the relevant facts concerning the matter have come to his knowledge, disclose the nature of his

Conflict of interest.

interest to the Committee.

5. A disclosure of interest in a matter shall be recorded in the minutes of the meeting of the Committee and the member shall not be present while that matter is being dealt with by the Committee and shall not take part in any deliberations or vote relating to the matter.

Disclosure of interest by members of the Committee.

6. The Committee shall pay the members of the Committee such allowances and expenses as shall be determined by the Cabinet Secretary.

Remuneration of Committee members.

I certify that this printed impression is a true copy of the Bill passed by the National Assembly on the 30th March, 2016.



Clerk of the National Assembly

Endorsed for presentation to the Senate in accordance with the provisions of Standing Order 142 of the National Assembly Standing Orders.



Speaker of the National Assembly

THE SENATE STANDING COMMITTEE ON HEALTH
STAKEHOLDER VIEWS ON THE HEALTH BILL, 2015

NO.	CLAUSE	STAKEHOLDER	PROPOSED AMENDMENT	COMMITTEE RESOLUTION
1.	Long title	University of Nairobi Kenya Medical Practitioners Pharmacists and Dentists Union	Avoid combined regulation of health care providers and health products in the same law Legislate on medication therapy management services as an essential health benefit to all patients	
2.	Long title	Dr. Mutakha Kangu (Consultant)	<ul style="list-style-type: none"> • Clarify the functional assignment between the national and county governments in relation to health. • Clearly set out the exclusive functions for accountability purposes and highlight the concurrent functions. Have a list of exclusive national government functions, exclusive county government functions and concurrent functions. 	
3.	Long title	KELIN	<ul style="list-style-type: none"> • An act of parliament to give effect to the right to health as provided for in the Constitution and provide for the regulations of the health sector and for connected purposes. 	
4.	2	KELIN	<ul style="list-style-type: none"> • Amend the definition of the term health extension worker to read as follows- <i>“emergency treatment” means medical treatment other immediate intervention requiring immediate care and treatment before any other definitive medical and surgical management can be procured.</i> <i>“Informed Consent” means voluntary consent obtained freely, without threats or improper</i> 	

NO.	CLAUSE	STAKEHOLDER	PROPOSED AMENDMENT	COMMITTEE RESOLUTION
			<p><i>inducement, after appropriate disclosure to the patient of adequate and understandable information in a form and language understood by the patient.</i></p> <p><i>“Abortion” is the premature expulsion of the products of conception from the uterus before the foetus is viable. Abortion can be spontaneous or induced”.</i></p>	
5.	2	The Public Health Officers and Technicians Council	<ul style="list-style-type: none"> Amend the definition of the term health extension worker to read as follows- <i>health care professional based in the community and working in rural, urban and peri-urban areas where they provide preventive and promotive health care services and a range of other health services including referral of patients to health facilities in the next level of health care delivery</i> 	
6.	2	Kenya National Commission on Human Rights	<ul style="list-style-type: none"> Delete the definition of abortion as is not referred to on the Bill Broaden the definition of informed consent (consent informed but not obtained freely) to include free informed consent (having been informed of the consequences of the treatment somebody appreciates the need for treatment and freely consents). 	
7.	2	Kenya Renal Association	<ul style="list-style-type: none"> The definition of tissues to include solid internal organs, cornea, skin and bones Define death to differentiate when death has occurred for legal, ethical, social and cultural reasons. Death means, <i>the irreversible loss of the</i> 	

NO.	CLAUSE	STAKEHOLDER	PROPOSED AMENDMENT	COMMITTEE RESOLUTION
			<p><i>capacity for consciousness combined with the irreversible loss of the capacity to breathe.</i></p> <ul style="list-style-type: none"> • The diagnosis of death should be based on 2 scenarios - (a) For people suffering a cardio respiratory arrest (no pulse and or breathing including failed resuscitation. Death is diagnosed when a registered health practitioner confirms. (b) For people in a coma in ICU, death is diagnosed by confirming the irreversible cessation of integrative function of the brainstem. 	
8.	2	College of Ophthalmology of Eastern, Central and Southern Africa	<ul style="list-style-type: none"> • The definition of disaster to include institution, county or country instead of local and external • Insert <i>life threatening medical situation</i> in the definition of emergency treatment • Define informed consent as follows, <i>Consent obtained freely without threats or improper inducement, after appropriate disclosure to the patient of adequate and understandable information in a form and language understood by the patient before invasive medical intervention</i> 	
9.	2	Kenya Christian Professionals Forum	<ul style="list-style-type: none"> • Definition of abortion should be framed in a manner that captures the fact that life begins at conception and that abortion is the killing of an unborn child. • Definition of informed consent should refer to 	

NO.	CLAUSE	STAKEHOLDER	PROPOSED AMENDMENT	COMMITTEE RESOLUTION
			<p>permission granted with the full knowledge of the possible consequences, risks and benefits.</p> <ul style="list-style-type: none"> • Define reproductive age – referred to in clause 6(1)(a) 	
10.	3(d)	<p>(1) Kenya Hospices and Palliative Care Association</p> <p>(2) KELIN</p>	<ul style="list-style-type: none"> • Insert palliative care after reproductive health care. Same in clause 4, after rehabilitation on clause 4(d), after rehabilitative in clause 5(1), 	
11.	4	Council of Governors	<ul style="list-style-type: none"> • Replace the word fundamental with primary. 	
12.	4(c)	KELIN	<ul style="list-style-type: none"> • Clause 4(c) to include – <ul style="list-style-type: none"> (a) the protection of the rights for people with rare diseases, orphan diseases, and neglected diseases. (b) key and affected populations as part of the interest groups 	
13.	4(d)	Kenya Harm Reduction Network	<ul style="list-style-type: none"> • Include harm reduction under the responsibility for health • Ensuring the provision of a health service package at all levels of the health care system, which shall include services addressing promotion, prevention, curative, palliative and rehabilitation and harm reduction. 	
14.	4	College of Ophthalmology of Eastern, Central and Southern Africa	<ul style="list-style-type: none"> • Include rights for people with rare diseases, emerging and neglected diseases 	

NO.	CLAUSE	STAKEHOLDER	PROPOSED AMENDMENT	COMMITTEE RESOLUTION
15.	Insert new clause after clause 4	KELIN	<ul style="list-style-type: none"> • Enshrine the Directive of free maternity services to all women into a legislative statute because the this directive has been poorly implemented with many cases of maternity detention happening. 	
16.	5	Kenya National Union of Nurses	<ul style="list-style-type: none"> • Add the following sub clauses – <p>5(3) The national and county governments shall ensure free and compulsory –</p> <ul style="list-style-type: none"> (a) access to vaccination; (b) maternity care for all pregnant women; and (c) treatment to all children under five years. <p>5(4)The national government shall establish and provide conditional grants to the county governments for the purposes of implementing sub section (3)</p> <p>5(5) No child shall be denied access to vaccination on the basis of culture, religion or any other reason.</p> <ul style="list-style-type: none"> • This will ensure access to health by women (maternal death) and children who are vulnerable 	
17.	5(1)	Kenya Harm Reduction Network	<ul style="list-style-type: none"> • Include harm reduction under the standards of health • Every person has the right to the highest attainable standard of health which shall include progressive access for provision of promotive, preventive, curative, palliative, rehabilitative and harm reduction services. 	

NO.	CLAUSE	STAKEHOLDER	PROPOSED AMENDMENT	COMMITTEE RESOLUTION
18.	6	KELIN	<ul style="list-style-type: none"> • Clause 6 (1) (c) and (2) seem to focus purely on abortion yet reproductive health encompasses much more than abortion and extends to contraceptives, emergency obstetric care and maternity services among others. We therefore propose that the whole clause is deleted • Clause 6(1)(b) Right to appropriate health care services that will enable parents to go through pregnancy safely. This should be replaced with ‘women’ as they are the ones who go through pregnancy. An inclusion of parents suggests both spouses and excludes single mothers who rightfully also go through pregnancy. • Clause 6(1)(c) delete the phrase ‘All such cases shall be regarded as comprising notifiable conditions’. The inclusion of pregnancy related conditions as notifiable conditions like would be with Cholera or Ebola, when the pregnancy complications defined in this section are neither transmissible nor communicable would stigmatize reproductive health related medical services and thus could deter patients from seeking services and providers from providing them. 	
19.	6(1)	Kenya Christian Professionals Forum	<ul style="list-style-type: none"> • Have a provision on providers of family planning services, the nature of the services being offered and the requirement for informed parental consent in any reproductive health procedure involving a minor 	

NO.	CLAUSE	STAKEHOLDER	PROPOSED AMENDMENT	COMMITTEE RESOLUTION
20.	6(1)(c)	National Gender and Equality Commission	<ul style="list-style-type: none"> Delete the phrase “All such cases shall be regarded as comprising notifiable conditions” Insert new clauses on rights and duties of reproductive health 	
21.	6(2)	(1) Pharmaceutical Society of Kenya (2) Dr. Kibe Victor (3) Kenya Association of Pharmaceutical Industry	Amend the definition of the term trained health professional to include other practitioners in the field of health as they play a crucial role in promotion of reproductive health	
22.	7	(1) Kenya Medical Practitioners Pharmacists and Dentists Union (2) Kenya National Commission on Human Rights (3) Kenya Medical Association (4)	<ul style="list-style-type: none"> Create a fund to manage the provision of emergency health services The burden of emergency care provision should be on the health care institution and not on the health care worker National Gender and Equality Commission – have the licence of a medical institution revoked if it fails to provide emergency treatment. 	
23.	8	KELIN	<ul style="list-style-type: none"> Clause 8 on health information should outline the kind of health information that must be publicised and made available to the public by both national and county facilities. 	
24.	9	KELIN	<ul style="list-style-type: none"> Insert a clause that recognises the evolving capacity of mature minors to consent to their own treatment 	

NO.	CLAUSE	STAKEHOLDER	PROPOSED AMENDMENT	COMMITTEE RESOLUTION
			in special circumstances.	
25.	11	Kenya Medical Practitioners Pharmacists and Dentists Union	<ul style="list-style-type: none"> • Disclosure of information to be allowed for training purposes 	
26.	12	Kenya Medical Practitioners Pharmacists and Dentists Union	<ul style="list-style-type: none"> • Add the following as rights and duties of healthcare providers - <ol style="list-style-type: none"> (a) Not to be unfairly discriminated against on account of their health status, tribe, race, association and religion; (b) The right to fair compensation and rehabilitation in the event of harm. (c) The right to representation in professional and employment dealings. (d) The right to fair remuneration and payment of services offered in accordance with the Labour and employment laws 	
27.	12(c)	Kenya National Commission on Human Rights	<ul style="list-style-type: none"> • Delete the provision or provide for safeguards as to the rights of the user in the context of the users right to privacy 	
28.	10, 11 &12	KELIN	<ul style="list-style-type: none"> • Clauses 10, 11 & 12 to be deleted and substituted with the recommended ones (<i>See Annex 1 pages 5 to 9</i>) • Clause 13 to be deleted as the information would be covered by section 10 of KELIN's recommendations. 	

NO.	CLAUSE	STAKEHOLDER	PROPOSED AMENDMENT	COMMITTEE RESOLUTION
29.	9(1)(f)	College of Ophthalmology of Eastern, Central and Southern Africa	Add the following words, any delay in the provision of the health service to the patient might result in his or her death or irreversible damage to his or her health or critical organs and the patient has not expressly, or by implication or by conduct refused that service.	
30.	12(1)(a)	Kenya National Union of Nurses	Replace health status with any condition stipulated under Article 27 of the Constitution	
31.	14	Kenya Christian Professionals Forum	<ul style="list-style-type: none"> Clarify whether the complaints procedure shall be similar across all health facilities including private facilities. 	
32.	14	KELIN	<ul style="list-style-type: none"> Clause 14 to be deleted and substituted with a new part that establishes a Health Tribunal to deal with all forms of medical complaints. (<i>Establishment of a Health Professions Tribunal - See Annex 1 pages 16 to 18</i>) 	
33.	15	Kenya National Union of Nurses	<ul style="list-style-type: none"> Delete paragraph (d) Insert the following as sub clause (3) 15(3) In carrying out any function stipulated under this section that relates to a function assigned to the counties, the national government shall consult with the county governments. 	
34.	15	KELIN	<ul style="list-style-type: none"> Clause 15 to be deleted and substituted with the recommended one (<i>See Annex 1 pages 9 to 11</i>) 	
35.	15	Council of Governors	<ul style="list-style-type: none"> 15(1)(c): At the beginning of sub clause (c), insert the words "..... together with County 	

NO.	CLAUSE	STAKEHOLDER	PROPOSED AMENDMENT	COMMITTEE RESOLUTION
			<p><i>government...." as this is shared mandate and can be used as an excuse to encroach on county function</i></p> <ul style="list-style-type: none"> • 15(1)(n): Redraft to read, set standards for accreditation as it is unclear and can be avenue for abuse to undermine devolution • 15(1)(p): Redraft to read, Together with County governments ensure that financial resources are mobilized to facilitate uninterrupted access to quality health services country wide... • 15(1)(q): is vague. This can be used to encroach on County functions because not all public and private health institutions fall under the mandate of the national ministry of health • 15(1)(r): Redraft to read, "<i>..provide guidelines for the development of county and national health information systems with linkages that ensures one national health information system...</i>" • 15(1)(t): Delete the word, specialized because counties may set up specialised health referral facilities and this clause may be used by the national Government to take over these facilities • 15(1)(x): Redraft to ensure the fund set will facilitate interventions both at counties and national facilities because emergencies and disaster management is a shared function 	
36.	15(1)(j)	College of Ophthalmology of Eastern, Central and Southern Africa	<ul style="list-style-type: none"> • Perform the function in collaboration with relevant professional bodies to add value to the process 	

NO.	CLAUSE	STAKEHOLDER	PROPOSED AMENDMENT	COMMITTEE RESOLUTION
37.	15(1)(v)	The Public Health Officers and Technicians Council	<ul style="list-style-type: none"> • Replace hospital with health care to read, <i>Provide policy guidelines and regulations for hospital waste management and conduct of environmental health impact assessment.</i> • Hospital waste is limited to waste generated at a higher level of health care delivery. Healthcare waste includes all waste generated in a health facility 	
38.	15(1)(x)	College of Ophthalmology of Eastern, Central and Southern Africa	<ul style="list-style-type: none"> • Amend the paragraph to read as follows - <i>establish an emergency medical treatment fund for emergencies to provide for clear mechanism for timely refund/payment for the services and unforeseen situations calling for supplementary finance</i> 	
39.	16	Kenya National Union of Nurses	<ul style="list-style-type: none"> • The office of the Director-General for health should be an office in the public service • Kenya National Commission on Human Rights – make provisions for removal from office of the Director-General. 	
40.	16	Robisher Bulimo	<ul style="list-style-type: none"> • There should be three Directors as follows- (a) Director Administration – Health Administrator (b) Director Public Health and Sanitation – Public Health Officer with Masters in Public Health (c) Director Medical Services - Medical Officer 	

NO.	CLAUSE	STAKEHOLDER	PROPOSED AMENDMENT	COMMITTEE RESOLUTION
41.	16(2)	Ministry of Health	<ul style="list-style-type: none"> Appointing authority of the Director-General should be the Cabinet Secretary as opposed to the President Director-General will work under the Cabinet Secretary and Principal Secretary who are both presidential appointees. The position replaces the current Director of Medical Services who is recruited by the Public Service Commission and appointed by the Cabinet Secretary. 	
42.	16(2)	Kenya National Union of Nurses	<ul style="list-style-type: none"> Appointing authority should be the President with the approval of Parliament 	
43.	16(3)(a)	(1) Pharmaceutical Society of Kenya (2) John Muriithi Mbogo (3) Dennis Kithinji - Medical Laboratory Student Leader, University of Nairobi (4) Peter Mbogo (5) Daniel Nyameino (6) Dr. Kibe Victor (7) Robinson Kipsut (8) Stanley Muriithi (9) Milton Makwae (10) Charles Mutie - Medical Lab Officer (11) Thomas	<p>Qualifications for appointment as Director-General of Health include that the person must be a medical practitioner registered by the Medical Practitioners and Dentists Board.</p> <p>Amend the qualification for appointment as a Director-General of Health so as to open up the qualification to other professionals in the health sector registered by their respective regulatory bodies.</p> <p>Dr. James Wathigo – The Director-General to hold office for a term of four years renewable once</p>	

NO.	CLAUSE	STAKEHOLDER	PROPOSED AMENDMENT	COMMITTEE RESOLUTION
		<p>Mwikwabe</p> <p>(12) Gregory Mweu</p> <p>(13) Josphat Mburu</p> <p>(14) James Mwenda</p> <p>(15) Innocent Sifuna – Public Health Officer, Turkana</p> <p>(16) Bornventure Omolo</p> <p>(17) Amos Cheruiyot</p> <p>(18) Maurice Abony</p> <p>(19) The Public Health Officers and Technicians Council</p> <p>(20) Kenya Union of Clinical Officers</p> <p>(21) National Quality Control Laboratory</p> <p>(22) Kenya National Union of Nurses</p> <p>(23) University of Nairobi</p> <p>(24) Kenya Medical Practitioners Pharmacists and Dentists Union</p> <p>(25) Kenya Association of Pharmaceutical Industry</p> <p>(26) Kenya Medical</p>		

NO.	CLAUSE	STAKEHOLDER	PROPOSED AMENDMENT	COMMITTEE RESOLUTION
		Laboratory Technicians and Technologist Board (27) Stephen Oduma (28) Brenda Opiyo		
44.	16(5)	Kenya National Union of Nurses	The Director-General should upon the expiration of his term be reassigned to any other office in the public service so that the persons continues working in the public service	
45.	17(a)	University of Nairobi Kenya Medical Practitioners Pharmacists and Dentists Union	Provide for various technical advisors (Heads of Directorates) in the different health disciplines	
46.	17(c)	National Gender and Equality Commission	Delete the functions (c) to (k) of the Director-General	
47.	17(d)	Ministry of Health	Delete paragraph (d) and substitute with <i>“be responsible for coordinating public health functions for preventing and guarding against introduction of infectious diseases and biological agents, pathogens, into Kenya.”</i> This is to ensure that at any given time the country is well protected from both infectious and biological agents as a security measure since the two are a security risk to the country.	

NO.	CLAUSE	STAKEHOLDER	PROPOSED AMENDMENT	COMMITTEE RESOLUTION
48.	17(i) and (j)	Kenya National Union of Nurses	The two sub clauses be deleted and the functions be carried out by the respective regulatory bodies	
49.	18	University of Nairobi	Mandate given to the Cabinet Secretary to determine policy priorities should be spelt out as a policy issues and should not be determined by an individual	
50.	19(2)	University of Nairobi	Provide for various technical advisors (Heads of Directorates) in the different health disciplines	
51.	19(2)	Kenya Christian Professionals Forum	The County Director of Health should be an employee of the national government	
52.	19(4)	(1) Pharmaceutical Society of Kenya (2) John Muriithi Mbogo (3) Dennis Kithinji - Medical Laboratory Student Leader, University of Nairobi (4) Peter Mbogo (5) Daniel Nyameino (6) Dr. Kibe Victor (7) Stanley Muriithi (8) Milton Makwae (9) Charles Mutie - Medical Lab Officer (29) Thomas Mwikwabe	Qualifications for appointment as County Director of Health include that the person must be a medical practitioner registered by the Medical Practitioners and Dentists Board. Amend the qualification for appointment as a County Director of Health to open up the qualification to other professionals in the health sector registered by their respective regulatory bodies. Dr. James Wathigo – The County Director of Health to hold office for a term of four years renewable once	

NO.	CLAUSE	STAKEHOLDER	PROPOSED AMENDMENT	COMMITTEE RESOLUTION
		(30) Gregory Mweu (31) Josphat Mburu (32) James Mwenda (33) Innocent Sifuna – Public Health Officer, Turkana (34) Bornventure Omolo (35) Amos Cheruiyot (36) Maurice Abony (37) The Public Health Officers and Technicians Council (38) Kenya Union of Clinical Officers (39) Kenya National Union of Nurses (40) University of Nairobi (41) Kenya Association of Pharmaceutical Industry (42) Kenya Medical Laboratory Technicians and Technologist Board (43) Stephen Oduma (44) Brenda Opiyo		
53.	19(5)(d)	Ministry of Health	Delete paragraph (d) and substitute with - <i>“be responsible for coordinating public health</i>	

NO.	CLAUSE	STAKEHOLDER	PROPOSED AMENDMENT	COMMITTEE RESOLUTION
			<p><i>functions for preventing and guarding against introduction of infectious diseases and biological agents, and pathogens, into and within the County."</i></p> <p>To mirror the functions of the Director General at county level and give the coordination role to the County Director of Health</p>	
54.	20	Council of Governors	<ul style="list-style-type: none"> • Delete the words, <i>...and in consultation through the established inter-governmental relations mechanisms</i> • Clause 20 (b) - development of county policies, laws, administrative procedures and programmes for progressive realisation of health based on county health indices that are aligned to the national health laws and policies • Clause 20(d) - Redraft and separate issues relating to providers and those relating to health facilities. • Clause 20(f) – Redraft to include the words: ...and the County Public Service Board after the words ‘Salaries and Remuneration Commission..’ and delete the words “.... including taking into account the use of equalization fund....” • Also include the following clauses to deal with matters on human resource- <i>"..... based on the national standards, carrying out skills competence assessment, training and capacity building and supporting continuous</i> 	

NO.	CLAUSE	STAKEHOLDER	PROPOSED AMENDMENT	COMMITTEE RESOLUTION
			<p><i>professional development of healthcare professionals....."</i></p> <p><i>"...Supervise internship programmes in line with the national standards...."</i></p>	
55.	20	KELIN	<ul style="list-style-type: none"> • Clauses 20 to be deleted and substituted with the recommended one (<i>See Annex 1 pages 11 to 13</i>) • Insert a new clause dealing with intergovernmental collaboration for health service delivery as recommended (<i>See Annex 1 pages 13 to 16</i>). National and county governments may, through the health sector inter-governmental consultative fora, the Constitution, the Inter-governmental Relations Act and any other law, collaborate, cooperate and coordinate in the delivery of health services. 	
56.	22	Council of Governors	<ul style="list-style-type: none"> • Redraft to read - <i>".....The national and county governments shall ensure the progressive access to and equitable distribution throughout the country, of public health facilities....."</i> 	
57.	22	Kenya National Commission on Human Rights	<ul style="list-style-type: none"> • Include dispensaries 	
58.	24	Council of Governors	<ul style="list-style-type: none"> • Delete (b) - This clause may be used by national government to unconstitutionally acquire specialized county facilities • Delete (c) and redraft to include setting guidelines on how counties can share expertise for specialised 	

NO.	CLAUSE	STAKEHOLDER	PROPOSED AMENDMENT	COMMITTEE RESOLUTION
			<p>care</p> <ul style="list-style-type: none"> • 24(f) – delete or redraft so as to retain the authority to procure in respect of either level of governments' functions or pursuant to authority arising from inter-governmental agreements signed in accordance with the relevant constitutional provisions and the Inter-Governmental Relations Act. 	
59.	24	Kenya Medical Practitioners Pharmacists and Dentists Union	<ul style="list-style-type: none"> • Insert new sub clause that the national Government shall manage and be responsible for— <i>the emoluments of specialists, medical practitioners, pharmacists and dentists.</i> 	
60.	25	KELIN	<ul style="list-style-type: none"> • Classification of levels of health care: The Bill should mandate the Cabinet Secretary to make regulations for the classification and roles of the institutions in a consultative manner 	
61.	26(2)	Kenya National Union of Nurses	The Forum should also comprise of each county public health officer so as to ensure comprehensive representation and articulation of all health issues	
62.	27	Council of Governors	Link the sectoral forum to the inter-governmental framework as provided for by the Intergovernmental Relations Act's technical committee, the Council of Governors and the Summit.	
63.	27	Kenya National Union of Nurses	<p>Insert a new sub clause (c) - <i>Be a platform for mutual consultation, coordination, operation, collaboration, technical assistance between national and county governments on all matters related to health</i></p>	

NO.	CLAUSE	STAKEHOLDER	PROPOSED AMENDMENT	COMMITTEE RESOLUTION
			<p><i>policies and laws.</i></p> <p>This is to effectively address core intergovernmental relations matters</p>	
64.	Part V (Clauses 30 to 44)	Council of Governors	Delete the entire Part V that establishes the Council and let the inter-governmental committee transitionally perform those functions until the Public Service Commissions and the County Public Service Boards determine how best to handle inter-county and cross county human resource matters.	
65.	Part V (Clauses 30 to 44)	Kenya National Union of Nurses	Part V – The Kenya Health Human Resource Advisory Council should be deleted as the Council does not add value in the health sector and its functions contradicts with those of the Public Service Commission and the Salaries and Remuneration Commission	
66.	30(1)	Kenya Medical Practitioners Pharmacists and Dentists Union	<ul style="list-style-type: none"> • Delete the word Advisory in the name • Have a representation of three persons nominated by the Unions representing Health workers registered by the Registrar of Trade Unions. 	
67.	30(1)(a) and (i)	University of Nairobi	<ul style="list-style-type: none"> • The chairperson should be interviewed by the Public Service Commission which will then forward three names to the President for appointment • It is not clear which forum will nominate persons from the public universities 	

NO.	CLAUSE	STAKEHOLDER	PROPOSED AMENDMENT	COMMITTEE RESOLUTION
68.	30(1)(i)	Ministry of Health	<p>Membership of the Kenya Health Human Resource Advisory Council – replace the three persons nominated by the public universities, private universities and mid-level institutions with the Principal Secretary for Education or their designated representative.</p> <p>This is to reduce the number of committee members in line with MWONGOZO: Code of Governance, which provides for a maximum of 7-9 members. The Principal Secretary will represent the Universities and Colleges</p>	
69.	30(1)	College of Ophthalmology of Eastern, Central and Southern Africa	Include professional bodies and colleges in the membership of the Authority	
70.	31	Allan Omondi	Define healthcare professional so as to clear any doubt on its meaning. There are many cadres within the health sector who might not necessarily be health professionals for example health administrative officers, and accountants.	
71.	31	Kenya Union of Clinical Officers	Add the following functions to the Council – (a) Employment of health workers. (b) Promotion and re-designation of health workers.	
72.	31	Kenya Medical Practitioners Pharmacists and Dentists Union	Add the following functions to the Council – (a) Posting of health professionals post-internship to national and county government facilities. (b) Recruitment, management and rotation of specialists, medical officers, dentists and	

NO.	CLAUSE	STAKEHOLDER	PROPOSED AMENDMENT	COMMITTEE RESOLUTION
			<p>pharmacists.</p> <p>(c) The schemes of service, terms and conditions of work; and collective bargaining frameworks for health professionals;</p> <p>(d) Management of all health professionals' personnel emoluments.</p>	
73.	33(1)	Ministry of Health	<p>The Chief Executive Officer of the Advisory Council shall be recruited by the Public Service Commission and appointed by the Council.</p> <p>The Ministry's proposal is for the CEO to be recruited and appointed by the Council</p>	
74.	33(2)(a)	<p>(1) Pharmaceutical Society of Kenya</p> <p>(2) Daniel Nyameino</p> <p>(3) Dr. Kibe Victor</p> <p>(4) Milton Makwae</p> <p>(5) Thomas Mwikwabe</p> <p>(6) Gregory Mweu</p> <p>(7) Josphat Mburu</p> <p>(8) James Mwenda</p> <p>(9) Innocent Sifuna – Public Health Officer, Turkana</p> <p>(10) Amos Cheruiyot</p> <p>(11) Maurice Abony</p> <p>(12) Allan Omondi</p> <p>(13) The Public Health Officers and Technicians</p>	<ul style="list-style-type: none"> • Amend qualifications for appointment of Chief Executive Officer of Kenya Health Human Resource Advisory Council so as to open up the qualification to other professionals in the health sector registered by their respective regulatory bodies. • Kenya Union of Clinical Officers – delete, <i>Advisory</i> in the name of the Council. • University of Nairobi - The position should be open to a person with human resource management experience • Kenya Christian Professionals Forum – faith based organizations should be represented in the Authority • Kenya National Commission on Human Rights 	

NO.	CLAUSE	STAKEHOLDER	PROPOSED AMENDMENT	COMMITTEE RESOLUTION
		Council (14) Kenya Union of Clinical Officers (15) National Quality Control Laboratory (16) Kenya Association of Pharmaceutical Industry (17) Kenya Medical Laboratory Technicians and Technologist Board (18) Stephen Oduma	should be represented in the Authority	
75.	46(1)	(1) College of Ophthalmology of Eastern, Central and Southern Africa (2) KELIN	The number of members of the Authority should be reduced and allow non state actors to nominate members	
76.	46(1)(a) and (e)	University of Nairobi	<ul style="list-style-type: none"> • Procedure for appointment of Chairperson should be clear • Procedure for nomination of two representatives nominated by the health regulatory bodies creates a conflict of interests as regulatory bodies cannot nominate representatives to their own oversight Authority • Each regulatory body should be represented 	
77.	46(1)(f)	Kenya Health Human Resource Advisory	Delete sub clause (f) because having deleted Part V on the Council there would be no representation from the	

NO.	CLAUSE	STAKEHOLDER	PROPOSED AMENDMENT	COMMITTEE RESOLUTION
		Council	Council	
78.	47 and 48	KELIN	<ul style="list-style-type: none"> • Clauses 47 to be deleted and substituted with the recommended one (<i>See Annex 1 page 21</i>) • Clauses 48 to be deleted and substituted with the recommended one (<i>See Annex 1 pages 19 to 21</i>) • Repeal the Acts establishing the various regulatory bodies in the health sector and have their functions undertaken by the Authority (<i>See Annex 1 pages 21 to 22</i>) 	
79.	48(b)	College of Ophthalmology of Eastern, Central and Southern Africa	Amend as follows – <i>promote and regulate inter-professional liaison between statutory regulatory bodies as well as non-statutory ones;</i>	
80.	48(g)	University of Nairobi	Regulatory bodies should set the health standards Kenya Medical Practitioners Pharmacists and Dentists Union – delete clauses 48(d) and 49(4)	
81.	49(1)	Ministry of Health	The Chief Executive Officer of the Kenya Health Professions Oversight Authority shall be recruited by the Public Service Commission and appointed by the Authority. The Ministry’s proposal is for the CEO to be recruited and appointed by the Authority.	
82.	49(2)(a)	(1) Pharmaceutical Society of Kenya	Amend qualifications for appointment of Chief Executive Officer of Kenya Health Professions	

NO.	CLAUSE	STAKEHOLDER	PROPOSED AMENDMENT	COMMITTEE RESOLUTION
		(2) Daniel Nyameino (3) Dr. Kibe Victor (4) Milton Makwae (5) Thomas Mwikwabe (6) Gregory Mweu (7) Josphat Mburu (8) James Mwenda (9) Innocent Sifuna – Public Health Officer, Turkana (10) Amos Cheruiyot (11) Maurice Abony (12) The Public Health Officers and Technicians Council (13) Kenya Union of Clinical Officers (14) National Quality Control Laboratory (15) Kenya Health Human Resource Advisory Council (16) University of Nairobi (17) Kenya Medical Practitioners Pharmacists and Dentists Union (18) Kenya Association of Pharmaceutical	Oversight Authority so as to open up the qualification to other professionals in the health sector registered by their respective regulatory bodies. Dr. James Wathigo - Dr. James Wathigo the chairperson should be a non-healthcare professional	

NO.	CLAUSE	STAKEHOLDER	PROPOSED AMENDMENT	COMMITTEE RESOLUTION
		Industry (19) Kenya Medical Laboratory Technicians and Technologist Board		
83.	55 & 57	KELIN	<ul style="list-style-type: none"> • Clauses 57 and 57 to be deleted and substituted with the recommended one (<i>See Annex 1 pages 22 to 23</i>) • Kenya Medical Practitioners Pharmacists and Dentists Union - 55. The funds of the Authority shall comprise funds of the Authority – <ul style="list-style-type: none"> (a) such funds as shall be appropriated by Parliament. 	
84.	62	Dr. Peter Ongwae Kenya National Commission on Human Rights	<p>Clause 62 proposes the establishment by an Act of Parliament of a single regulatory body for the regulation of health products and health technologies.</p> <p>This clause is in direct conflict with the functions and powers of the Pharmacy and Poisons Board.</p>	
85.	Part VII (Clauses 62 to 67)	Kenya National Union of Nurses Kenya Medical Laboratory Technicians and Technologist Board University of Nairobi	<p>Delete Part VII on Regulation of Health Products and Health Technologies as it conflicts with the existing Kenya Medical Supplies Authority and the Pharmacy and Poisons Board</p> <p>KELIN – Part VII to be deleted and substituted with the recommended one (<i>See Annex 1 pages 23 to 27</i>)</p>	
86.	Part VIII (Clauses 68	KELIN	<ul style="list-style-type: none"> • Clauses 47 to be deleted because these issues have 	

NO.	CLAUSE	STAKEHOLDER	PROPOSED AMENDMENT	COMMITTEE RESOLUTION
	to 72)		already been captured in other parts of the bill.	
87.	68(1)(b)	Ministry of Health	<p>Delete paragraph (b) and substitute with -</p> <p><i>“developing standards and guidelines to promote healthy lifestyles including the reduction of modifiable risk factors for non-communicable diseases, counter use and exposure to tobacco and the harmful use of alcohol and the adulteration of such products, reduce the use of other addictive substances and counter exposure of children and others to tobacco smoke including advertisement.”</i></p> <p>The sub-clause will provide for the enhanced promotion of healthy lifestyles while minimizing risk factors that impact of non communicable diseases.</p> <p>This provision is crucial because non communicable diseases are on the increase and are negatively impacting the country’s economy and development.</p>	
88.	68(1)(c)	Dr. Peter Ongwae	<p>Insert the following new provision —</p> <p><i>(ii) Food fortification with essential minerals and /or vitamins to assist curb micro-nutrient deficiencies in general populations.</i></p>	
89.	68(1)(d)	Ministry of Health	<p>Delete paragraph (d) and substitute with -</p> <p><i>“developing standards and guidelines to promote healthy lifestyles including the reduction of modifiable risk factors for non-communicable diseases, counter use and exposure to tobacco and the harmful use of</i></p>	

NO.	CLAUSE	STAKEHOLDER	PROPOSED AMENDMENT	COMMITTEE RESOLUTION
			<p><i>alcohol and the adulteration of such products, reduce the use of other addictive substances and counter exposure of children and others to tobacco smoke including advertisement.”</i></p> <p>The sub-clause will provide for the enhanced promotion of healthy lifestyles while minimizing risk factors that impact of non communicable diseases.</p> <p>This provision is crucial because non communicable diseases are on the increase and are negatively impacting the country’s economy and development.</p>	
90.	68(1)(e)	Dr. Peter Ongwae	<p>Insert the following new provision —</p> <p><i>(vii) the use of sex enhancers by men, requires health education and clear warning on PDE as unchecked use of these classes of drugs results in fatalities.</i></p>	
91.	68(1)(v)	Council of Governors	Redraft to make the clause broader and refer to harmful traditional practices	
92.	68(2)(b)	Ministry of Health	<ul style="list-style-type: none"> • Delete paragraph (b) and substitute with - <i>“Develop standards and guidelines for the implementation of public health interventions and promote general health education for the public on wellness, adoption of health promoting behaviour, screening, early detection and treatment of diseases.”</i> • The amendment changes the role of National Government to development of standards and guidelines and promotion of health education of the 	

NO.	CLAUSE	STAKEHOLDER	PROPOSED AMENDMENT	COMMITTEE RESOLUTION
			public.	
93.	69(1)(e)	Ministry of Health	<ul style="list-style-type: none"> • Delete paragraph (e) and substitute with - “<i>strengthening patient safety, infection prevention and control systems including health care waste management in all health facilities.</i>” • Inclusion of patient safety policies and strategies, is paramount for the delivery of quality health care, and ensure that implementation of patient safety measures is institutionalized in the health system. 	
94.	71(1)	Ministry of Health	<ul style="list-style-type: none"> • Substitute shall with may in the establishment of lactation stations in the workplace. • Mandatory establishment of lactation stations will significantly raise the cost of employment to unrealistic proportions. 	
95.	74	Kenya Christian Professionals Forum	<ul style="list-style-type: none"> • Regulation of practice on traditional medicine should be solely done by the county health departments 	
96.	Part X – Clauses 74 to 79	University of Nairobi	<ul style="list-style-type: none"> • Part X-Traditional And Alternative Medicine <ul style="list-style-type: none"> (a) No mention is made of traditional medicinal products and devices (b) Provide for two-way referral of traditional medicine practitioners to conventional health facilities • KELIN – specific Act of Parliament to be enacted to adequately address the issue of Traditional & 	

NO.	CLAUSE	STAKEHOLDER	PROPOSED AMENDMENT	COMMITTEE RESOLUTION
			Alternative Medicine.	
97.	80	University of Nairobi	<ul style="list-style-type: none"> • Blood products should be regulated by the Pharmacy and Poisons Board 	
98.	80(1)	Ministry of Health	<ul style="list-style-type: none"> • Add, 'and cloning" to the marginal note to read, "Human organs transplantation and cloning." • Inserting the words "by qualified individuals" to ensure human organs transplantation is done by qualified health practitioners. This will also provide for prohibition of manipulation and experimentation of genetic material, and cloning of human beings. 	
99.	Part XI – Clauses 80 to 85	KELIN	<ul style="list-style-type: none"> • Part XI to be deleted and substituted with the recommended one (<i>See Annex 1 pages 27 to 33</i>) 	
100.	81(3)(a)	Kenya Renal Association	<ul style="list-style-type: none"> • The Cabinet Secretary may, after the death of a person donate the body or part or any specific tissue of that person to an institution. • The proposal is to have the Cabinet Secretary or a designated representative in order to expedite the process. 	
101.	83	Kenya Renal Association	<ul style="list-style-type: none"> • Add the following words, • A donor or in the case of a deceased donor, the legally designated next of kin may, prior to the transplantation of the relevant organ into the donee, revoke a donation in the same way in which it was made or, in the case of a donation by way of a will 	

NO.	CLAUSE	STAKEHOLDER	PROPOSED AMENDMENT	COMMITTEE RESOLUTION
			<p>or other document, also by the intentional destruction of that will or document.</p> <ul style="list-style-type: none"> • Then define deceased donor as, <i>an individual from whom solid organs can be retrieved according to this Act and who has been confirmed dead.</i> 	
102.	85(1)	Kenya Renal Association	<ul style="list-style-type: none"> • Change the name of the Kenya National Blood Transfusion Service to Kenya National Transplantation Service. The body will also provide for solid organ and haematological transplantation service. • Kenya Medical Laboratory Technicians and Technologist Board – delete clause 85 	
103.	86(1)	Council of Governors	<ul style="list-style-type: none"> • Redraft to provide that- <i>“...the National and County governments shall cooperate in the development of national strategies to ensure the progressive universal health coverage ...”</i> 	
104.	86	Kenya National Commission on Human Rights	<ul style="list-style-type: none"> • Health financing – clarity as to what kinds of hospitals one can visit and what kind of service one is entitled to that is, the health entitlements for all persons in Kenya 	
105.	86(1)	Dr. Barasa, Dr. Tama, Dr. Munge & Dr. Nguhiu	<ul style="list-style-type: none"> • Kenya Medical Practitioners Pharmacists and Dentists Union – delete the word progressive. • Replace department of health with national and county governments because health financing is a responsibility of the government as a whole and not 	

NO.	CLAUSE	STAKEHOLDER	PROPOSED AMENDMENT	COMMITTEE RESOLUTION
			<p>a department <i>The department of health shall ensure progressive financial access to universal health coverage by taking measures that include—</i></p> <ul style="list-style-type: none"> • Replace national health insurance system with national health financing system • Replace sub clauses (d) and (e) with – <p>(d) Provide for a system of revenue generation for the health financing system that ascribes to the principles of equity and solidarity including that-</p> <ul style="list-style-type: none"> (i) access to health services is based on need and not on ability to pay; (ii) provision are made for financial risk protection and especially that contributions to health financing do not expose households to financial catastrophe and a reduction in payments at the point of service (iii) all persons participate in the health financing system and that contributions are based on ability to pay (iv) there is a reduction in the inequalities between the people of Kenya with respect to the benefits they can obtain from the health service. <p>(e) provide for a sufficient fair share of national and county government spending to be allocated to the</p>	

NO.	CLAUSE	STAKEHOLDER	PROPOSED AMENDMENT	COMMITTEE RESOLUTION
			system of health financing according to need.	
106.	86(1)	University of Nairobi	<ul style="list-style-type: none"> • This should be a function of the Authority and not the Department of Health 	
107.	86(1)(f)	Kenya Association of Pharmaceutical Industry	<ul style="list-style-type: none"> • Delete pending stakeholder participation on the aspects of price control. 	
108.	89(1) & (2) and 91(1)(a)	University of Nairobi	<ul style="list-style-type: none"> • Include pharmacies • Delete this section as licensing should remain a mandate of the relevant regulatory bodies • Inspections should only be done by the respective regulatory bodies 	
109.	89 and 91	Kenya National Union of Nurses	<ul style="list-style-type: none"> • 89 and 91 on licensing of private entities to operate hospitals and clinics be deleted. This should be covered by a separate legislation 	
110.	Part XIV – Clauses 93 to 102	KELIN	<ul style="list-style-type: none"> • Part XIV to be deleted and substituted with the recommended one (<i>See Annex 1 pages 34 to 37</i>) • Enabling Legislation and Regulations – indicate time frames within which the enabling legislation and or regulations are to be made. 	
111.	93(2)	Kenya Medical Laboratory Technicians and Technologist Board	<ul style="list-style-type: none"> • Substitute eleven with thirteen. 	

NO.	CLAUSE	STAKEHOLDER	PROPOSED AMENDMENT	COMMITTEE RESOLUTION
112.	94	College of Ophthalmology of Eastern, Central and Southern Africa	<ul style="list-style-type: none"> • Add a representative of professional bodies in the membership of the National Health Research Committee • Kenya Medical Laboratory Technicians and Technologist Board – include a representative from the Kenya Medical Laboratory Technicians and Technologist Board. 	
113.	94(f)	University of Nairobi	<ul style="list-style-type: none"> • The two representatives of the National Health Research Committee from public universities should be done by the IPUCCF 	
114.	105(2)	Ministry of Health	<ul style="list-style-type: none"> • Delete ‘in consultation with the Director General’ to read- <i>“the Cabinet Secretary shall prescribe policy guidelines for the establishment of an integrated comprehensive health information system which shall include-....”</i> • Director General is the technical advisor on health. Policy guidelines will be developed with input from the Director General, as such, the Cabinet Secretary does not need to consult the Director General, who by virtue of their position works under the supervision of the Cabinet Secretary. 	
115.	107(3)	Kenya Medical Practitioners Pharmacists and Dentists Union	<ul style="list-style-type: none"> • Amend to include all doctors, dentists & pharmacists; not just specialists. 	

NO.	CLAUSE	STAKEHOLDER	PROPOSED AMENDMENT	COMMITTEE RESOLUTION
116.	112	Ministry of Health	<ul style="list-style-type: none"> • Clause 112 empowers the Cabinet Secretary, in consultation with the Director-General to make regulations. • Director-General is the technical advisor and regulations will be developed with the Director's input. As such, the Cabinet Secretary does not need to consult the Director-General who by virtue of his or her position works under the supervision of the Cabinet Secretary. 	
117.	112(o) and (q)	University of Nairobi	<ul style="list-style-type: none"> • The documentation of traditional medicines and a database for herbalists should be regulated under the Pharmacy and Poisons Act • The procurement of health products and health technologies is already being undertaken n by KEMSA 	
118.	First Schedule	Ministry of Health	<ul style="list-style-type: none"> • Classification of health facilities in four levels as opposed to the current proposed six levels <p>(1) Substitute Level 1 with TIER 1</p> <p>(2) Substitute Level 2 (Dispensary/Clinic) and Level 3 (Health Centre) with TIER 2 (Primary Care Facilities). The functions of TIER 2 hospitals shall be —</p> <ul style="list-style-type: none"> (a) provision of outpatient care; (b) provision of limited emergency care; (c) maternity for normal deliveries; (d) laboratories, oral health and referral services; (e) provision of rehabilitative, preventive and 	

NO.	CLAUSE	STAKEHOLDER	PROPOSED AMENDMENT	COMMITTEE RESOLUTION
			<p>promotive services; and (f) in- patient observation.</p> <p>Note: The in- charge shall be a clinical officer or a registered medical practitioner, except in a facility that operates out-patient care only that the in-charge shall be a nurse or a clinical officer.</p> <p>(3) Substitute Level 4 (Primary Hospital) and Level 5 (Secondary Hospital) with TIER 3 (County Hospitals). The functions of TIER 3 hospitals shall be —</p> <p>(a) clinical supportive supervision to lower level facilities; (b) referral level out- patient care; (c) in – patient services; (d) Emergency obstetric care and oral health services; (e) surgery on in-patient basis; (f) client health education; (g) provision of specialised laboratory tests; (h) radiology services; (i) proper case management of referral cases through the provision of four main clinical specialities(internal medicine, general surgery, gyneo/obstetrics and paediatrics) by general practitioners backed by appropriate technical devices; (j) proper counter referrals; (k) provision of logistical support to the lower facilities in the catchment area;</p>	

NO.	CLAUSE	STAKEHOLDER	PROPOSED AMENDMENT	COMMITTEE RESOLUTION
			<p>(l) coordination of information flow from facilities in the catchment area</p> <p>(m) provision of specialised services;</p> <p>(n) training facilities for cadres of health workers who function at the primary care level (nursing staff and clinical officers);</p> <p>(o) services as internship centres for all staff up to medical officers;</p> <p>(p) research centres.</p> <p>Note: The in-charge is a registered medical practitioner with a master's degree in a health related field.</p> <p>(4) Substitute Level 6 (Tertiary Hospital) with TIER 4 (National Referral Hospitals).</p> <p>Note 1: The in-charge is a qualified and registered health professional.</p> <p>Note 2: Tier 4 shall be national referral hospitals and may be established in any county.</p> <p>The amendments to the First Schedule of the Bill is meant to align the classification of levels of healthcare delivery with the Kenya Health Policy 2014-2030, which seeks to progressively change the 6 levels of care to 4 levels of care by 2030. This change will facilitate provision of resources, and determination of standards and health care package.</p>	

NO.	CLAUSE	STAKEHOLDER	PROPOSED AMENDMENT	COMMITTEE RESOLUTION
119.	First Schedule	The Public Health Officers and Technicians Council	<p>Add the following to the roles of Community Health Services</p> <ul style="list-style-type: none"> (a) Mobilizing, sensitizing and advising communities on matters related to health including environmental health. (b) Organizing community health dyas to advise communities on common public health issues. (c) Collecting and maintaining up to date records of services rendered and assessing health needs of the community. <ul style="list-style-type: none"> • Note: The in charge is the Public Health Technician • Public health technicians offer a broad range of community health services most of which are preventive in nature. 	
120.	First Schedule	Kenya National Union of Nurses	<ul style="list-style-type: none"> • The in charge of the health facilities be as follows- <ul style="list-style-type: none"> (a) Level 1 – a qualified health professional registered by a recognized regulatory body (b) Level 3 – a nurse, a clinical officer or a medical officer (c) Level 4 – primary hospital be substituted with the name county referral hospital and the in charge be a qualified health professional registered by a recognized regulatory body and holder of a masters degree in a health related field (d) Level 5 – secondary hospital be substituted with the name regional referral hospital and the in charge be a qualified health professional registered by a recognized regulatory body, 	

NO.	CLAUSE	STAKEHOLDER	PROPOSED AMENDMENT	COMMITTEE RESOLUTION
			<p>holder of a masters degree in a health related field, have a post graduate qualification in management and at least five years experience in management</p> <p>(e) Level 6 – tertiary hospital be substituted with the name national referral hospital and the in charge be a qualified health professional registered by a recognized regulatory body, holder of a masters degree in a health related field, have a post graduate qualification in management and at least ten years experience in senior management</p> <ul style="list-style-type: none"> • Delete the following notes 2 and 3- <p>Note 2: Level 6 shall be National Referral Hospitals and established in every County.</p> <p>Note 3: Facilities from levels 2-5 can be upgraded or downgraded by the Director-General based on a set criteria.</p>	
121.	First Schedule	<p>(1) Pharmaceutical Society of Kenya</p> <p>(2) Dr. Kibe Victor</p> <p>(3) Robinson Kipsut</p> <p>(4) Milton Makwae</p> <p>(5) Thomas Mwikwabe</p> <p>(6) Gregory Mweu</p> <p>(7) Josphat Mburu</p> <p>(8) James Mwenda</p> <p>(9) Innocent Sifuna – Public Health Officer, Turkana</p> <p>(10) Amos</p>	Amend the persons in charge of Levels 2,3,4,5 and 6 to be professionals in the health sector registered by the relevant regulatory bodies.	

NO.	CLAUSE	STAKEHOLDER	PROPOSED AMENDMENT	COMMITTEE RESOLUTION
		Cheruiyot (11) University of Nairobi (12) Kenya Association of Pharmaceutical Industry		
122.	First Schedule	Peter Mbogo	The in-charge of Health Centres to be nurse, medical officer or clinical officer with a minimum of two years' experience but not limited to a clinical officer and a medical officers as it is in the Bill.	
123.	First Schedule	Bornventure Omolo	<p>Level 3: Health Centre Note: The In-charge will be a Nurse or a Clinical Officer with a Bachelors degree.</p> <p>Level 4: Primary Hospital Note: The in-charge will be a registered medical practitioner or a nurse with a Masters degree in a health related field.</p> <p>Level 5: Secondary Hospital Note: The in-charge will be a registered medical practitioner with a Masters degree in a health related field or a nurse with a PHD.</p>	
124.	First Schedule	Kenya Union of Clinical Officers	The in charge in Levels 4 to 6 should be health practitioners and not medical practitioners	
125.	First Schedule	Dr. Mutakha Kangu (Consultant)	Facilities from levels 2 to 5 can be upgraded or downgraded by the Director-General based on set criteria – the upgrading should not result in a county health facility being taken over by the national	

NO.	CLAUSE	STAKEHOLDER	PROPOSED AMENDMENT	COMMITTEE RESOLUTION
	Note 3.		government.	
126.		Jeremiah Maina	The Bill proposes to establish several bodies which will duplicate the work of existing bodies.	
127.	New provisions	Kenya Medical Association	Define death by a physician so that doctors are able to determine death of a patient especially those on life support	
128.	New provisions	Kenya Medical Association	Make provision for regulation of mortuary services	
129.	New provisions	Dr. Mutakha Kangu (Consultant)	Insertion of a new Part to operationalize Article 235 of the Constitution on staffing of county governments	
130.	New provisions	Kenya Medical Association	Make provisions for management of specialists – Already covered in clauses 31(e) and 107(3)	
131.	New provisions	Pharmaceutical Society of Kenya	Health and Safety Executive (HSE) should be within the Ministry of Health. Most injuries emanate from work places, and the HSE will ensure that all work places do abide with safety and health requirements.	
132.	New provisions	Pharmaceutical Society of Kenya	Every County Level Hospital should have Pharmacy and Therapeutic Group (PTG) charged with approving and selecting drugs to be used in the hospital, dissemination of information including pharmacovigilance information to all clinicians and also combating infection through infection control, antibiotic prescribing, patient safety and audit. Such group should be enshrined in law so that every hospital forms one and its function monitored for	

NO.	CLAUSE	STAKEHOLDER	PROPOSED AMENDMENT	COMMITTEE RESOLUTION
			better patient outcome.	
133.	New provisions	Kenya Christian Professionals Forum	The Bill should have provisions to secure the right to parental involvement, care and protection in keeping with Article 53(1)(e) of the Constitution.	
134.	New provisions	Audrey Mbugua – Transgender	Make provisions for sex reassignment	
135.	New provisions	Kenya Hospices and Palliative Care Association	Insert new provisions dealing with palliative care as per <i>Annex 2</i>	

SENATE COMMITTEE ON HEALTH

HEALTH BILL, 2016

PUBLIC PARTICIPATION ATTENDANCE

15TH JUNE 2016

	NAME	DESIGNATION / OFFICE	SIGN
✓ 1	DR W. O. WADIA	Consultant Pharmacist UPDO	
✓ 2	DR. N. M. MURUGA	SCHOOL OF PHARMACY - UON.	
3	DR ABUQ S	PSK	
4	Nancy Wandegwe	Kenya Retail ASSOCIATION	
5	Dr. Kelvin Stanley MOLA	PSK	
6	Dr. Christine Onyiko	MLKH	
7	Dr. David ASATI	MCH	
8	Dr. Esther Kariuki	PSK	
9	Dr. Wala Elizabeth	KMA	
10	Dr. George Bigwa	Mac's Pharm. Ltd	
11	DR PAUL MWANGI	Pharm President pharma central society of Kenya	
12	JOSHUA MUSA	ART CHAIRMAN KNUN	
13	DR ROGERS ATIEL	Education of Kenya Pharmaceutical Manufacturers	
14	DR CHRISTINE SADI	Chairperson - KMSA	
15	DR. K. KAC	KOMBA, KMAP	
16	Elizabeth Ouma	Kamunya & Co Advocates	
17	DR. Zippah W	Executive Director	
18	DR. MARGARET N. N. N.	Simba Hill TANA RIVER COUNTY	
19	DR Mwakana Probenic	Tana River County	
20	Tereah Muelomba	Simba Hill	
21	Joel Pamella	Simba Hill	
22	JUDY MECCA	Simba Hill	
23	CATRIONA MUMUKI	HERAF	
24	Catherine Nyambaz	Dandelion Kenya	
25	STAN ODERO	International Treatment Repurchaser Coalition	
26	ALAN MAREKIE	ILCIN	
27	Alyssa Orwey	KELU	
28	Wendy	NWIK	
29	Probenic	KRATU	
30	James Mungu	Hoxmas	
31	Belinda Kaman	MOH / Legal TA	
32	Dr. Mary Wanjau	MOH	
33	Aggrey Omondi	PATOC	

NAME	DESIGNATION / OFFICE	SIGN
37	PHARMACY	<i>[Signature]</i>
38	COLLECTOR DELHI	<i>[Signature]</i>
39	ANNA M. KATHA	<i>[Signature]</i>
40	HEALTH SERVICES	<i>[Signature]</i>
41	DR. A. O. LOPEZ	<i>[Signature]</i>
42	DR. D. M. SHILTON	<i>[Signature]</i>
43	DR. ANNE MORGAN	<i>[Signature]</i>
44	DR. W. MORGAN	<i>[Signature]</i>
45	DR. M. MORGAN	<i>[Signature]</i>
46	DR. M. MORGAN	<i>[Signature]</i>
47	DR. HASSARD	<i>[Signature]</i>
48	SAM. JOSEPH	<i>[Signature]</i>
49	RETH. PHARMA	<i>[Signature]</i>
50	DR. L. B. B. B.	<i>[Signature]</i>
51	NAELIA MORGAN	<i>[Signature]</i>
52	DR. D. MORGAN	<i>[Signature]</i>
53	DR. A. MORGAN	<i>[Signature]</i>
54	DR. C. MORGAN	<i>[Signature]</i>
55	DR. M. MORGAN	<i>[Signature]</i>
56	DR. J. MORGAN	<i>[Signature]</i>
57	DR. K. MORGAN	<i>[Signature]</i>
58	DR. L. MORGAN	<i>[Signature]</i>
59	DR. M. MORGAN	<i>[Signature]</i>
60	DR. N. MORGAN	<i>[Signature]</i>
61	DR. O. MORGAN	<i>[Signature]</i>
62	DR. P. MORGAN	<i>[Signature]</i>
63	DR. Q. MORGAN	<i>[Signature]</i>
64	DR. R. MORGAN	<i>[Signature]</i>
65	DR. S. MORGAN	<i>[Signature]</i>
66	DR. T. MORGAN	<i>[Signature]</i>
67	DR. U. MORGAN	<i>[Signature]</i>
68	DR. V. MORGAN	<i>[Signature]</i>
69	DR. W. MORGAN	<i>[Signature]</i>
70	DR. X. MORGAN	<i>[Signature]</i>
71	DR. Y. MORGAN	<i>[Signature]</i>
72	DR. Z. MORGAN	<i>[Signature]</i>
73	DR. A. MORGAN	<i>[Signature]</i>
74	DR. B. MORGAN	<i>[Signature]</i>
75	DR. C. MORGAN	<i>[Signature]</i>

NAME	DESIGNATION / OFFICE	SIGN
Dr. Winnie Bore	Principals' Unit	
James Kilgus	Unit	
Jamille Wamman	Keen	
Fitzrah Ambrani	KEEN	
S. Neger	Focus Kansas Lear	
Carole Adams	and Technical Clear porta	
MN ADJUTANT GENERAL	KCOA	
MICHAEL LLOYD	KUCO	
KEVIN ROSE	LEON	
MITIE ELIABETH	PKU	
ERIC SUMPT	KCMT - CATHY DOW	
MAGARE MAGARA	UON	
Bruce James	UOH	
Debra Orens	UON	
BRUCE WATSON	THARSON	
JOSE AMATEWA	INSU-LEAK STICE	
KYNET IYELWEL	JOURNALIST NMG	
JAVA'S HAHN	WATERMAN	
S.K. MATHUR	APPLIK	
JUDYAL JAYOUN	U-350 - MOET	
SCHE MURPHY	MOET	
HANLEY IYEGYAN	Handicap International	
JAMES O. LUSK	Handicap International	
BEAMIE GACHUMBI	MST-8	
JOHANN JOSEPH	KUCO	
GERT GEORGE	KUCO	
VINCE FAY (MONT)	KUNN	
ROBBIE MURRAY KARAN	EALU	
Dr. TIM THORAL	Kenya Dental Ass	
TRIL OCHSAL	NTRK	
BR OYIN KWIN	KAKMGA COUNTY MATH	
SAMUEL KISIKA	The Star Newspaper	
SPENCER MURPHY	L.C. D.A. SEC. KIMBUN	
IGITH. POLK	R-CLIO CIBAS	
BARBARA WERTON	WORTHINGTON EMBAU COUNT	
BOBSC WERTON	NURSE MARGARITH HOSI	
F. O. KIMU	FCI	
PETER MURRAY	Medical Practitioner	
Corey O'Shea	LEHN	
P. J. Korie	PSIC	
Angela Ward	MULT	

MWA

Radaa Era



SENATE COMMITTEE ON HEALTH

HEALTH BILL, 2016

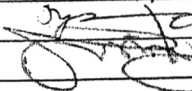
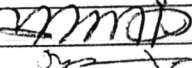
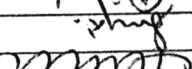
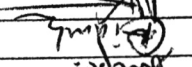
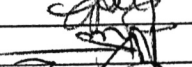
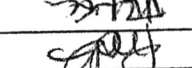
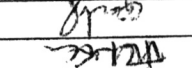
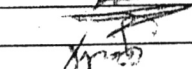
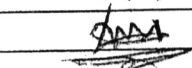
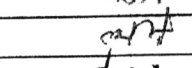
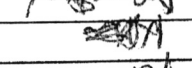
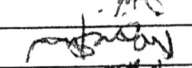





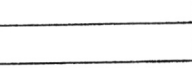
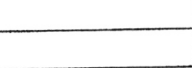

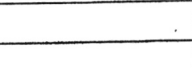
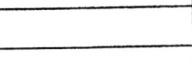
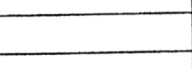
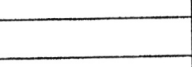
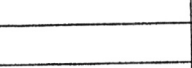
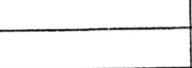
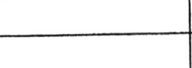
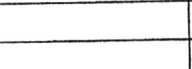

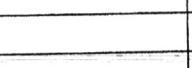
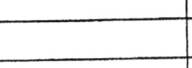
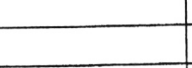
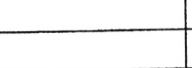
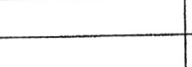
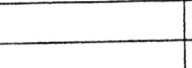
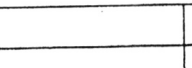
PUBLIC PARTICIPATION ATTENDANCE

15TH JUNE 2016

NAME	DESIGNATION / OFFICE	SIGN
118 Tami O. Chere	Nurse	
119 Moses Aom	SCG KHPs	
120 Andrew Kaitie	SCG	
121 Inno Kichahie	KHPs / KOTA	
122 Hanyu Malharu	media	
123 Mavis Munki	Nursing officer	
124 Kinara Shom	Nursing officer	
125 Philip Mubei	study officer	
126 Salmac N. Muangi	Nursing officer	
127 HEATHER NJUGUNA	PHARMACIST	
128 Lisa Kiro	Clinician	
129 Kenneth Agendo	Self employment	
130 Dr. Emmanuel Tami	NOCU Trust	
131 Dr. Eteng Koro	Kenya University	
132 Dr. Aloysius MURKHT	Med (Clinical Pharmacy)	
133 Agnes Munden	KNUN	
134 Lucy Kamau	KNUN	
135 Happiness Ouko	Amref Health Africa	
136 TARUS G. KIPKEMO	KNUN KERICHO	
137 FAITH N. SOMBA	KNUN MKI	
138 KILEMI HENRY	KNUN MACHAKOS	
139 Abel Oek	KNUN MII	
140 Margaret Kwaris	KDNA	
141 Collin Joruga	Pharmacist	
142 Zeno J. Muga	Nurse	
143 Wanda Maita	Nurse	
144 RUPHAKA KILON	SMILT	
145 Jeremia Mairak	NNAAC	
146 PORTI NDIGA	NURSE	
147 Zenzele Kibidi	Nurse	
148 Omnia Rachel	Nurse / KNUN	
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SIGN	DESIGNATION / OFFICE	NAME
	Senior Deputy Chief Pharmacist	Dr. Pao Hsing
	Pharmacist	Dr. Marmora
	Pharmacist	Dr. Kelly
	Pharmacist	Dr. Lee
	Pharmacist	Dr. Kim
	Senior Pharmacist	Dr. Anderson
	Pharmacist	Kelly
	Pharmacist	Mariana
	Pharmacist	Mary
	Pharmacist	Nita
	Pharmacist	Nita
	Pharmacist	Nita
	Pharmacist	Nita
	Pharmacist	Nita
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	Pharmacist	Nita
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