



REPUBLIC OF KENYA
ELEVENTH PARLIAMENT – FOURTH SESSION
NATIONAL ASSEMBLY
VOTES AND PROCEEDINGS
THURSDAY, MARCH 17, 2016

1. The House assembled at thirty minutes past Two O'clock
2. The Proceedings were opened with Prayer
3. **Presiding** - the Speaker
4. **COMMUNICATION FROM THE CHAIR ON COMMUNITY LAND BILL, 2015**

The Speaker conveyed the following Communication –

"Honourable Members,

You will recall that during the Morning Sitting of today, the consideration of the Community Land Bill (National Assembly Bill, No. 45 of 2015) at Committee of the Whole House was deferred when the Committee reported progress. This was essentially to allow Members sufficient time to study the Bill and possibly propose amendments.

Honourable Members,

As you are aware, the Bill has a Constitutional timeline and is one of the pieces of legislation requiring consideration by both Houses. In this regard, any Member intending to propose amendments to the Bill has until Monday 21st March, 2016 to submit any amendments to the Office of the Clerk. This will ensure that the Bill is scheduled for consideration at Committee of the Whole House on Wednesday next week.

Thank you".

5. **PETITIONS**

The following Members presented Petitions –

- (i) The Member for Kitui South (Hon. (Dr.) Rachel Nyamai) presented a Petition on behalf of concerned residents of Kitui South Constituency regarding the state of the Kibwezi- Kitui Road; and

- (ii) The Member for Kitui South Constituency (Hon. Mustafa Idd) presented a Petition on behalf of employees of Rea Vipingo Limited regarding the non-payment of salaries and working conditions at the Rea Vipingo Plantation Limited.

Petitions referred to the relevant Departmental Committees pursuant to Standing Order 227(1)

6. **PAPERS LAID**

The following Papers were laid on the Table –

The Reports of the Departmental Committee on Justice and Legal Affairs on the Committee on:-

- (i) The Political Parties (Amendment) Bill, 2016; and
- (ii) The Election Laws(Amendment) (No.3) Bill, 2015

(Chairperson, Departmental Committee on Justice and Legal Affairs)

7. **STATEMENT PURSUANT TO STANDING ORDER 44(2)(a)**

Pursuant to the provision of Standing Order 44(2)(a), the Leader of the Majority Party issued a Statement regarding the Business of the House for the week commencing Tuesday, March 22, 2016.

8. **THE PUBLIC APPOINTMENTS (COUNTY ASSEMBLY APPROVAL) BILL (SENATE BILL NO. 20 OF 2014)**

(The Chairperson, Departmental Committee on Administration & National Security)

Order for First Reading read;

Bill read a First Time and referred to the relevant Departmental Committee pursuant to Standing Order 127(1)

9. **THE HIV AND AIDS PREVENTION AND CONTROL (AMENDMENT BILL) (SENATE BILL NO. 4 OF 2015)**

(The Chairperson, Departmental Committee on Health)

Order for First Reading read;

Bill read a First Time and referred to the relevant Departmental Committee pursuant to Standing Order 127(1)

10. **THE COUNTY INDUSTRIAL DEVELOPMENT BILL (SENATE BILL NO. 7 OF 2014)**

(The Chairperson, Departmental Committee on Finance, Planning and Trade)

Order for First Reading read;

Bill read a First Time and referred to the relevant Departmental Committee pursuant to Standing Order 127(1)

11. COMMITTEE OF THE WHOLE HOUSE

Order for Committee read

IN THE COMMITTEE

The First Chairperson in the Chair

The Health Bill (National Assembly Bill No.14 of 2015)

Clause 3 - agreed to

Clause 4 - amendment proposed -

THAT, clause 4 of the Bill be amended by inserting the words "palliative" immediately after the word "curative" appearing in sub clause (d).

(Chairperson, Departmental Committee on Health)

Question of the amendment proposed;

Debate arising;

Question put and agreed to;

Clause 4 - as amended agreed to

Clause 5 - amendment proposed -

THAT, clause 5 of the Bill be amended by inserting the word "palliative" immediately after the words "curative"

(Chairperson, Departmental Committee on Health)

Question of the amendment proposed;

Debate arising;

Question put and agreed to;

Clause 5 - as amended agreed to

Clause 6 - amendment proposed -

THAT, clause 6 of the Bill be amended—

(a) in sub clause (1) by deleting the words "except elective abortions." appearing in paragraph (a);

(b) in sub clause (2) by deleting the words "uncomplicated abortion and post-abortion care and in the identification, management and referral of abortion" and substituting therefor the words "manage pregnancy-related complications in women"

(Chairperson, Departmental Committee on Health)

Question of the amendment proposed;

Debate arising;

Question put and agreed to;

Clause 6 - as amended agreed to

(No.027)

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(245)

Clause 7 - amendment proposed -

THAT, clause 7 of the Bill be amended, by inserting the following new sub clause immediately after sub clause (2) —

"(2A) A health care provider shall not be liable under this section, until the provisions of subsection (2) have been implemented."

(Chairperson, Departmental Committee on Health)

Question of the amendment proposed;

Debate arising;

Question put and negatived;

Clause 7 - agreed to

Clause 8 - amendment proposed -

THAT, clause 8 of the Bill be amended in sub clause (3), by inserting the word "care" immediately after the word "health".

(Chairperson, Departmental Committee on Health)

Question of the amendment proposed;

Debate arising;

Question put and agreed to;

Clause 8 - as amended agreed to

Clauses 9, 10, 11 & 12 - agreed to

Clause 13 - amendment proposed -

THAT, clause 13 of the Bill be amended by deleting the words "in so far as it is within users" appearing immediately after the words "the duty" and substituting therefor the words "in the absence of any observable incapacity"

(Chairperson, Departmental Committee on Health)

Question of the amendment proposed;

Debate arising;

Question put and agreed to;

Clause 13 - as amended agreed to

Clause 14 - agreed to

Clause 15 - amendment proposed -

THAT, clause 15 of the Bill be amended-

(a) In sub clause (1) -

(i) by deleting paragraph (a) and substituting therefor the following new paragraph -

"(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";

(ii) by inserting the words "and healthy lifestyle;" immediately after the words "dietetic services" appearing in paragraph (d).

(iii) by inserting the following new paragraph immediately after paragraph (h) -

"(ha) put in place intervention measures to reduce the burden of communicable and non-communicable diseases, emerging and re-emerging diseases, and neglected diseases";

(iv) by deleting the words "national and county referral" appearing immediately after the words "designation of" in paragraph (j).

(v) by inserting the words "through the established inter-governmental relations mechanisms" immediately before the word "coordinate" appearing in paragraph (o);

(vi) by inserting the words "and specialized" immediately after the word "national" appearing in paragraph (t).

(vii) by inserting the following new paragraph immediately after paragraph (u) -
 "(ua) provide policy guidelines and regulations for hospital waste management and conduct of environmental health impact assessment";

(viii) by inserting the following new paragraph immediately after paragraph (w) -

"(wa) provide policy and training, maintenance of standards and co-ordination mechanisms for the provision of emergency healthcare";

(b) in sub clause (2), by inserting the words " in consultation through the established inter-governmental relations mechanisms" immediately after the words "Health" appearing in the opening statement.

(Chairperson, Departmental Committee on Health)

Question of the amendment proposed;

Debate arising;

Question put and agreed to;

Clause 15 - as amended agreed to

Clause 16 - amendment proposed -

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, vetted by Parliament and appointed by the President."

Question of the amendment proposed;

Debate arising;

Question put and agreed to;

Clause 16 - as amended agreed to

Clause 17 - amendment proposed -

THAT, clause 17 of the Bill be amended by—

(a) deleting paragraph (a) and substituting therefor the following new paragraph -

“(a) be the technical advisor to the Government on all matters relating to health within the health sector”.

(b) by deleting paragraph (j) and substituting therefor the following paragraph -

“(j) provide guidelines for registration, licensing, certification and gazettement of all health facilities”;

(Chairperson, Departmental Committee on Health)

Question of the amendment proposed;

Debate arising;

Question put and agreed to;

Clause 17 - as amended agreed to

Clause 18 - amendment proposed -

THAT, clause 18 of the Bill be amended by inserting the words “in consultation with the Director General” immediately after the words “Cabinet Secretary”.

(Chairperson, Departmental Committee on Health)

Question of the amendment proposed;

Debate arising;

Question put and agreed to;

Clause 18 - as amended agreed to

Clause 19 - agreed to

Clause 20 - amendment proposed -

THAT, clause 20 of the Bill be amended —

(a) in the opening statement by inserting the words “and in consultation through the established inter-governmental relations mechanisms” immediately after the word “Constitution” .

(a) by deleting paragraph (1) and substituting therefor the following new paragraph -

"(I) 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".

(Chairperson, Departmental Committee on Health)

Question of the amendment proposed;

Debate arising;

Question put and agreed to;

Clause 20 – as amended agreed to

Clauses 21, 22 & 23 – agreed to

Clause 24 – amendment proposed -

THAT, clause 24 of the Bill be deleted.

(Chairperson, Departmental Committee on Health)

Question of the amendment proposed;

Debate arising;

Question put and agreed to;

Clause 24 – deleted

(Change of Chair from the First to the Fourth Chairperson)

Clauses 25 & 26 – agreed to

Clause 27 – amendment proposed -

THAT, clause 27 of the Bill be deleted and replaced by the following new clause-

Establishment of 27. (1) There is established an Authority known as the Kenya Health Professions Oversight Authority.

(2) The Authority 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.

(Chairperson, Departmental Committee on Health)

Question of the amendment proposed;

Debate arising;

Question put and agreed to;

Clause 27 – as amended agreed to

(No.027)

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(249)

Clause 28 – amendment proposed -

THAT, clause 28 of the Bill be deleted and replaced by the following new clause-

The Board of the
Authority.

28.The Authority shall be administered by a Board which shall consist of –

- (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 matters relating to 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 health professional associations registered by the Registrar of Societies who are not regulated or registered by any regulatory body;
- (g) one representative from the private sector appointed by the Cabinet Secretary;
- (h) one representative from consumer rights bodies appointed by the Cabinet Secretary; and
- (i) the Chief Executive Officer.

(Chairperson, Departmental Committee on Health)

Question of the amendment proposed;

Debate arising;

Amendment to the amendment proposed -

THAT, the proposed amendment to Clause 28 be amended by inserting the following new paragraph after paragraph (i):-

- (j) two persons nominated by the Council of Governors

Question of the Amendment to the Amendment Proposed

Debate arising;

Question put and agreed to;

Clause 28 - as amended agreed to

Clause 29 - amendment proposed -

THAT, clause 29 of the Bill be deleted and replaced by the following new clause-

Powers of the
Authority.

29. 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—

- (a) control, supervise and administer the assets of the Authority in such manner and for such purpose as best promotes the purpose for which the Authority is established;
- (b) determine the provisions to be made for capital and recurrent expenditure and for the reserves 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 or 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 37.

(Chairperson, Departmental Committee on Health)

Question of the amendment proposed;

Debate arising;

Question put and agreed to;

Clause 29 - as amended agreed to

Clause 30 - amendment proposed -

THAT, clause 30 of the Bill -

(a) be deleted and replaced by the following new clause-

Functions of the
Authority.

30. (1) The functions of the Authority shall be to-

- (a) maintain a duplicate register of all health professionals working within the 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 recognized 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—

- (h) the manner and form of coordinating joint inspections with all regulatory bodies;
- (i) the procedure for receipt and facilitation of the resolution of complaints from patients, aggrieved parties and regulatory bodies;
- (j) the manner of monitoring the execution of respective mandates and functions of regulatory bodies recognized under an Act of Parliament;
- (k) the mechanisms for arbitration of disputes between statutory regulatory bodies, including conflict or dispute resolution amongst Boards and Authorities; and

- (l) mechanisms to ensure that the necessary standards for health professionals are not compromised by the regulatory bodies.

(Chairperson, Departmental Committee on Health)

Question of the amendment proposed;

Debate arising;

Question put and agreed to:

Clause 30 - as amended agreed to

Clause 31 - amendment proposed -

THAT, clause 31 of the Bill be deleted and replaced by the following new clause-

Formation of
professional
bodies.

31. 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.

(Chairperson, Departmental Committee on Health)

Question of the amendment proposed;

Debate arising;

Question put and agreed to:

Clause 31 - as amended agreed to

Clause 32 - agreed to

Clause 33 - amendment proposed -

THAT, clause 33 of the Bill be amended in sub clause (1) by deleting the word "weapons" appearing in paragraph (f) and substituting therefor the word "products".

(Chairperson, Departmental Committee on Health)

Question of the amendment proposed;

Debate arising;

Question put and agreed to:

Clause 33 - as amended agreed to

Clauses 34, 35, 36 & 37 - agreed to

Clause 38 - amendment proposed -

THAT, clause 38 of the Bill be amended-

- (a) in sub-clause (2) by deleting the expression "(a)" appearing at the beginning of the sub- clause.
- (b) by renumbering paragraph (b) as paragraph (a);
- (c) by renumbering paragraph (c) as paragraph (b);
- (d) by renumbering paragraph (d) as paragraph (c);
- (e) by renumbering paragraph (e) as paragraph (d);

(f) by renumbering paragraph (f) as paragraph (e);

(Chairperson, Departmental Committee on Health)

Question of the amendment proposed;

Debate arising;

Question put and agreed to;

Clause 38 – as amended agreed to

Clause 39 – amendment proposed -

THAT, clause 39 of the Bill be amended in sub clause (1) by inserting a new paragraph immediately after paragraph (l)—

“(m) developing guidelines for the conduct of health impact assessment.”

(Chairperson, Departmental Committee on Health)

Question of the amendment proposed;

Debate arising;

Question put and agreed to;

Clause 39 – as amended agreed to

Clause 40 – agreed to

Clause 41 – amendment proposed -

THAT, clause 41 of the Bill be amended by deleting the opening statement and substituting therefor the following new opening statement -

“There shall be established by an Act of Parliament, legislation to—”

(Chairperson, Departmental Committee on Health)

Question of the amendment proposed;

Debate arising;

Question put and agreed to;

Clause 41 – as amended agreed to

Clause 42 – agreed to

Clause 43 – amendment proposed -

THAT, clause 43 of the Bill be amended —

(a) in sub clause (1) by deleting the word “African”

(b) in sub clause (3) by deleting the word “African”

(Chairperson, Departmental Committee on Health)

Question of the amendment proposed;

Debate arising;

Question put and agreed to;

Clause 43 - as amended agreed to

Clauses 44, 45, 46 & 47 - agreed to

Clause 48 - amendment proposed -

THAT, clause 48 be amended in sub clause (2) by inserting the word "in" immediately after the word "mentioned".

(Chairperson, Departmental Committee on Health)

Question of the amendment proposed;

Debate arising;

Question put and agreed to;

Clause 48 - as amended agreed to

Clause 49 - amendment proposed -

THAT, clause 49 be amended, by deleting sub clause (2) and substituting therefor the following new clause—

"(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."

(Chairperson, Departmental Committee on Health)

Question of the amendment proposed;

Debate arising;

Question put and negatived;

Clause 49 - negatived

Clauses 50 & 51 - agreed to

Clause 52 - amendment proposed -

THAT, clause 52 be amended—

(a) in sub clause (1) by deleting paragraph (b) and substituting therefor the following new paragraph—

"(b) the spouse(s), child, parent, guardian, brother or sister of the deceased, in the specific order mentioned, gave consent thereto;
or "

(b) in sub clause (2) by deleting paragraph (b) and substituting therefor the following new paragraph—

“(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 authorized institution,

authorizes the post mortem examination in writing and in the prescribed manner.”

(Chairperson, Departmental Committee on Health)

Question of the amendment proposed;

Debate arising;

Question put and agreed to;

Clause 52 – as amended agreed to

Clauses 53 – agreed to

Clause 54 – amendment proposed -

THAT, clause 54 of the Bill be deleted and replaced by the following new clause—

Health finance. **“54.(1)** The Ministry of health shall ensure progressive financial access to universal health coverage by taking measures that include—

- (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 particular population groups to the system in the areas concerned; and
- (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

(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."

(Chairperson, Departmental Committee on Health)

Question of the amendment proposed;

Debate arising;

Amendment to the amendment proposed –

THAT, the proposed amendment to Clause 54 be amended in sub-clause 1(c) by inserting the phrase "including affordable healthcare and last expense" immediately after the phrase "health coverage"

(Chairperson, Departmental Committee on Health)

Question of the Amendment to the Amendment proposed

Debate arising;

Question put and agreed to;

Clause 54 – as amended agreed to

Progress report

Motion made and Question proposed –

THAT, the Committee do report to the House its consideration of the Health Bill, (National Assembly Bill No. 14 of 2015) up to clause 54 and its approval thereof with amendments and seek leave to sit again

(Chairperson, Departmental Committee on Health)

Question put and agreed to;

12. **HOUSE RESUMED** - The Fourth Chairperson in the Chair

The Health Bill (National Assembly Bill No.14 of 2015)

Progress reported;

Motion made and Question proposed –

THAT, the House do agree with the Committee in the said report

(Chairperson, Departmental Committee on Health)

Question put and agreed to;

And the time being thirty minutes past Six O'clock, the Fourth Chairperson interrupted the proceedings and adjourned the House without Question put pursuant to the Standing Orders.

13. HOUSE ROSE - at thirty minutes past Six O'clock

M E M O R A N D U M

The Speaker will take the Chair on
Tuesday, March 22, 2016 at 2.30 p.m.

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