



REPUBLIC OF KENYA

TWELFTH PARLIAMENT – SECOND SESSION

THE NATIONAL ASSEMBLY

VOTES AND PROCEEDINGS

WEDNESDAY, NOVEMBER 7, 2018

1. The House assembled at thirty minutes past Two O'clock
2. The Proceedings were opened with Prayer
3. **Presiding** – the Deputy Speaker
4. **PETITIONS**

The following Petition was conveyed –

- (i) The Deputy Speaker conveyed the following Petition –

“Honourable Members,

Standing Order 225(2)(b) requires that the Speaker reports to the House any Petition other than those presented through a Member. I therefore wish to convey to the House that my office has received a Petition from one Ms. Mercy K. Wambua, regarding review of section 18 of the Law Society of Kenya Act, No. 21 of 2014. The review is aimed at lowering the threshold for eligibility of a candidate who seeks to be elected as a President or Vice President of the Law Society of Kenya Council.

Honourable Members,

- i) The Petitioner submits that section 18 of the Law Society of Kenya Act, 2014, provides that a person is eligible for election as President or Vice-President of the Law Society of Kenya Council, if the person is qualified to be a Judge of the Supreme Court and has at least 15 years' experience.
- ii) Following a Judgment delivered on 5th February, 2018, regarding a Constitutional Petition No. 607 of 2017, challenging the said statutory provisions, the Judge dismissed the Petition citing that the court is hesitant to be involved in internal matters of professional bodies.

Honourable Members,

The Petitioner therefore contends that the court's verdict dissuaded courts from involving themselves with internal matters of professional bodies but encouraged them to seek redress through other means including but not limited to legislative interventions. Therefore, following a resolution made at the Society's Annual General Meeting (AGM) held on 24th March, 2018, the Law Society of Kenya Council pursuant to section 4 of the Law Society of Kenya Act, 2014 resolved to petition Parliament to consider this matter.

Hounarable Members,

The Petitioners therefore pray that the National Assembly through the relevant Departmental Committee considers and legislates in order to amend or repeal Section 18 of the Law Society of Kenya Act in line with the said Court Judgement.

Honourable Members,

This Petition therefore stands committed to the Departmental Committee on Justice and Legal Affairs for consideration. The Committee is requested to consider the Petition and report its findings to the House and petitioners in accordance with Standing Order 227(2). May I also encourage the Committee to consider introducing a separate legislation to address the concerns of the Petitioners, or, use the avenue of the Statute law Miscellaneous (Amendment) Bill (National Assembly Bill No. 12 of 2018), to cause the House to legislate in the manner prayed by the Law Society of Kenya Council.

I thank you!"

Petition referred to the Departmental Committee on Justice and Legal Affairs pursuant to Standing Order 227.

5. **PAPERS LAID**

The following Papers were laid on the Table –

- (i) Annual Report and Financial Statements of the South Eastern Kenya University for the year ended 30th June, 2017;
- (ii) The Reports of the Auditor-General and Financial Statements in respect of the following Constituencies for the year ended 30th June, 2017 and the certificates therein: -
 - a) Ruaraka;
 - b) Mandera West;
 - c) Embakasi West;
 - d) Kamukunji;
 - e) Embakasi East;
 - f) Dagoretti North; and

(The Deputy Leader of the Majority Party)

6. NOTICES OF MOTION

The following Notice of Motion was given –

Notice of Motion – Fourth Report of the Committee on Members’ Services and Facilities

THAT, this House notes the Fourth Report of the Committee on Members’ Services and Facilities on a Study Visit to the Parliament of India from 6th to 14th August, 2018, laid on the Table of the House on Wednesday, November, 07, 2018.

*(The Hon. Ezekiel MachoguOmbaki,
Chairperson, Committee on Members’ Services and Facilities)*

7. QUESTIONS

The following Questions were made to various Ministries–

- (i) Question 113/2018 by the Member for North Mugirango (Hon. JoashNyamoko) regarding burning of school dormitories in four primary and secondary schools in North Mugirango Constituency. Question referred to the Departmental Committee on Education and Research.
- (ii) Question 130/2018 by the Member for Kikuyu (Hon. KimaniIchung’wa) regarding issuance of work permits for foreigners. Question referred to the Departmental Committee on Administration and National Security.
- (iii) Question 140/2018 by the Member for SigowetSoin (Hon. KipsengeretKoros) regarding compensation to the family of the late Janet Chepngeno who lost her life through electrocution. Question referred to the Departmental Committee on Energy.
- (iv) Question 105/2018 by the Member for Igembe South (Hon. John Paul Mwirigi) regarding construction of Maua-Athiru-Kiraone-Kilili-Meru National Park road. Question referred to the Departmental Committee on Transport, Public Works and Housing.
- (v) Question 143/2018 by the Member for Mandera West (Hon. Adan Haji Yussuf) regarding acquisition of the new generation passports. Question referred to the Departmental Committee on Administration and National Security.
- (vi) Question 105/2018 by the Member for Malava (Hon. MaluluInjendi) regarding stone crushing activities by Mssrs Jiangxi Zhongmei Engineering company; Question referred to the Departmental Committee on Transport, Public Works and Housing.

The following Question was deferred –

Question 141/2018 by the Member for Dagoretti North (Hon. SimbaArati) regarding the late James Nganga of Nakuru County pending medical bill.

8. **MOTION – REPORT OF THE COMMITTEE OF THE WHOLE HOUSE ON THE URBAN AREAS AND CITIES (AMENDMENT) BILL (SENATE BILL NO. 4 OF 2017)**
(No.103) **WEDNESDAY, NOVEMBER 7, 2018** (1016)

Motion made and Question proposed –

THAT, this House do agree with the Report of the Committee of the whole House on its consideration of the Urban Areas and Cities (Amendment) Bill (Senate Bill No. 4 of 2017).

(The Leader of the Majority Party – 06.11.2018)

Debate on the Motion having been concluded on Tuesday, November 6, 2018, Question put and agreed to.

Motion made and Question proposed –

THAT, the Urban Areas and Cities (Amendment) Bill (Senate Bill No.4 of 2017 be now read a Third Time

(The Leader of the Majority Party)

Debate arising;

Question put and agreed to;

Bill read a Third Time and **passed**.

9. **THE COUNTY GOVERNMENTS (AMENDMENT) BILL (SENATE BILL NO. 11 OF 2017)**

Motion made and Question proposed –

THAT, this County Governments (Amendment) Bill (Senate Bill No.11 of 2017) be now read a Second Time

(The Leader of the Majority Party – 06.11.2018)

Debate on the Second Reading having been concluded on Tuesday, November 6, 2018;

Question put and agreed to;

Bill read a Second Time and committed to the Committee of the whole House.

10. **MOTION – REPORT OF THE COMMITTEE OF THE WHOLE HOUSE ON THE HEALTH LAWS (AMENDMENT) BILL (NATIONAL ASSEMBLY BILL NO. 14 OF 2018)**

Motion made and Question proposed –

THAT, the Motion for agreement with the Report of the Committee of the whole House on its consideration of the Health Laws (Amendment) Bill (National Assembly Bill No. 14 of 2018) be amended by inserting the words “**subject to recommittal of the Bill, with regard to-**

- (i) the provisions relating to the Pharmacy and Poisons Act (Cap 244), in respect of Sections 2, 3, 6, New 9, 20, 23 and 27; and**
- (ii) the provisions relating to the Kenya Medical Supplies Authority Act (No. 20 of 2013) in respect of New Section 4.”.**

(The Leader of the Majority Party)

Question put and agreed to.

The House proceeded to Committee of the Whole House for Re-committal.

11.COMMITTEE OF THE WHOLE HOUSE

Order for Committee read;

IN THE COMMITTEE

The Second Chairperson in the Chair

Recommittal of the Health Laws (Amendment) Bill (National Assembly Bill No. 14 of 2018)

Schedule to the Bill

1. Provision relating to the Pharmacy and Poisons Act, Cap 244.

Proposed amendment to Section 2

Further amendment proposed;

THAT the Schedule to the Bill be amended by deleting the proposed amendments to section 2 and substituting therefor the following new amendments-

- s. 2 Delete the definition of the term “enrolled pharmaceutical technologist”;and substitute therefor the following new definition-
- “enrolled pharmaceutical technologist” means a holder of a diploma in pharmacy from a training institution recognised by the Board and whose name appears on the Roll;

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

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

Delete the definition of the term “pharmaceutical inspector”;
Delete the definition of the term “registered pharmacist” and substitute therefor the following new definition-

“registered pharmacist” means a holder of a degree in pharmacy from a training institution recognised by the Board and whose name is entered on the register;

Insert the following definitions in proper alphabetical sequence-

“clinical trial” means any systematic study on pharmaceutical products in human subjects, whether in patients or other volunteers, in order to discover or verify the effects of, identify any adverse reaction to, investigational products, to study the absorption, distribution, metabolism and excretion of the products with the object of ascertaining their efficacy and safety;

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

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

“health product” includes human and veterinary medicines, medical products, medicinal substances, vaccines, diagnostics, medical devices, blood products, traditional & alternative medicine, therapeutic feeds & nutritional formulations, cosmetics and related products”

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

“investigational medicinal substance” means a pharmaceutical form of an active substance or placebo being tested or used as a reference in a clinical trial, including products already with a marketing authorisation but used or assembled (formulated or packaged) in a way different from the authorised form, or when used for an unauthorised indication, or when used to gain further information about the authorised form;

“medical device” means any instrument, apparatus, implement, machine, appliance, implant, in vitro reagent or calibrator, software, material or other similar or related article-

- (a) intended by the manufacturer to be used, alone or in combination, for humans or animals for: -
- (i) diagnosis, prevention, monitoring, treatment or alleviation of disease;
 - (ii) diagnosis, monitoring, treatment, alleviation of or compensation for an injury;
 - (iii) investigation, replacement, modification or support of the anatomy or of a physiological process;
 - (iv) supporting or sustaining life;
 - (v) control of conception;
 - (vi) disinfection of medical devices; or
 - (vii) providing information for medical or diagnostic purposes by means of in vitro examination of specimens derived from the human body; and
- (b) which does not achieve its primary intended action in or on the human or animal body by pharmacological, immunological or metabolic means, but which may be assisted in its intended function by such means.

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

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

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

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

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

“practicing license” means a license issued under section 9A; and
“specialist pharmacist” means a registered pharmacist who has completed an approved postgraduate training programme in a particular field of pharmaceutical sciences, and who has gained sufficient experience and demonstrated to the Board’s satisfaction, adequate knowledge and skill in his or her chosen field.



(Leader of the Majority Party)

Question of the further amendment proposed,

Debate arising;

Further Amendment to the further Amendment Proposed:-

That, the proposed new definition of the word “registered pharmacist” be amended by deleting the words ‘training institution’ and replacing thereof the word ‘university’.

(Hon. Jeremiah Kioni)

Debate on the further Amendment to the further Amendment arising;

Question on the Amendment to the further Amendment put and agreed to.

Debate on the further Amendment as further amended resumed;

Question on the further Amendment as further amended put and agreed to.

Amendment to Section 2, as further amended **agreed to**.

Proposed amendment to Section 3

Further amendment proposed;



THAT the Schedule to the Bill be amended by deleting the proposed amendments to section 3 and substituting therefor the following new amendment-

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

Establishment
of the Pharmacy
and Poisons
Board.

3. (1) There is established a Board which shall consist of-

- (a) a Chairperson who shall be appointed by the President and who shall-
 - (i) be a registered pharmacist of good standing with a degree in pharmacy; and
 - (ii) have at least ten years' experience in the pharmaceutical sector;
- (b) the Director of pharmaceutical services;
- (c) the Principal Secretary in the ministry for the time being responsible for finance or his representative;
- (d) one enrolled pharmaceutical technologist with expertise in community pharmacy appointed by the Cabinet Secretary;
- (e) two persons representing the pharmacy training institutions, of which one shall be a pharmacist and one shall be a pharmaceutical technologist;
- (f) three persons appointed by the Cabinet Secretary, of whom-
 - (i) one shall be an enrolled pharmaceutical technologist nominated by the Kenya Pharmaceutical Association; and
 - (ii) two shall be registered pharmacists nominated by the Pharmaceutical Society of Kenya, and one of whom shall have expertise in industrial pharmacy;
- (g) the Chief Executive Officer, who shall be an ex officio member;
- (h) one medical practitioner nominated by the Kenya Medical Association and appointed by the Cabinet Secretary;

(2) The persons appointed under subsection (1)(f) shall be appointed by the Cabinet Secretary from among members nominated by their relevant professional

associations, each of which shall nominate two candidates in each category taking into consideration gender, ethnicity and regional balance.

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

(Leader of the Majority Party)

Question of the further amendment proposed,

Debate arising;

Question on the further Amendment put and agreed to.

Amendment to Section 3, as further amended **agreed to**.

Proposed amendment to Section 6(1)

Further amendment proposed;

THAT the Schedule to the Bill be amended by deleting the proposed amendment to section 6 and substituting therefor the following new amendment-

s. 6(1) Insert the words “and specialist pharmacists” immediately after the word “pharmacists”.

(Leader of the Majority Party)

Question of the further amendment proposed,

Debate arising;

Question on the further Amendment put and agreed to.

Amendment to Section 6(1), as further amended **agreed to**.

Proposed amendments to Section 20, **agreed to**

Proposed amendments to Section 23, **agreed to**

Proposed amendments to Section 27, **agreed to**

New Sections

Proposed New Sections 9A,B,C,D,E&F

Further amendment proposed;

THAT the Schedule to the Bill be amended by deleting the proposed new section 9A and substituting therefor the following new section—

New section. Insert the following new sections immediately after section 9—

Practicing licence.

9A. (1) The Registrar shall issue, in accordance with rules made under this Act, a practicing license authorizing registered pharmacists or enrolled pharmaceutical technologists to practice as registered pharmacists or enrolled pharmaceutical technologists.

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

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

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

Application for practising license.

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

Issue of practising license.

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

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

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

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

(3) For purposes of this Act, it shall be a requirement for every practising registered pharmacist and enrolled pharmaceutical technologist, practicing in their private capacity, government, faith based institutions, non-governmental organizations,

Refusal to issue or renew a license.	training institutions, research organizations or any other institution, to have a valid practising license. 9D. The Board may deny or refuse to issue or renew a license under this Act if it determines after due process, that the applicant has failed to comply with the requirements of this Act or its rules.
Renewal, cancellation and suspension of license.	9E. (1) A registered pharmacist or enrolled pharmaceutical technologist issued with a license under this Act may apply for renewal of the license in the prescribed form at least thirty days before the date of expiry thereof. (2) A registered pharmacist or an enrolled pharmaceutical technologist who fails to renew a license within the prescribed period shall, when applying for a renewal, be required to pay such late application fee as shall be prescribed.
Continuous professional development.	9F. For purposes of maintaining a level of competence in his or her ongoing practice, every registered pharmacist and enrolled pharmaceutical technologist shall undertake appropriate Continuous Professional Development as prescribed by the Board.

(Leader of the Majority Party)

Motion made and Question proposed –

THAT, the Proposed New Sections 9A,B,C,D,E&F be read a Second Time

Debate arising;

Question put and agreed to.

Question proposed –

THAT, the Proposed New Sections 9A,B,C,D,E&F be part of the Bill

Debate arising;

Question of the further amendment put and agreed to

Proposed New Sections 9A,B,C,D,E&F **agreed to.**

2. Provision relating to the Kenya Medical Supplies Authority Act (Act No. 20 of 2013).

Proposed New Section 4

Further amendment proposed;

THAT the Schedule to the Bill be amended by inserting the following new amendment immediately before the proposed amendment to section 5(1)(a)–

s. 4 Insert the following new subsections immediately after subsection (2)–

“(3) A national or county public health facility shall, in the procurement and distribution of drugs and medical supplies, obtain all such drugs and medical supplies from the Authority unless–

(a) such drugs and medical supplies are for the time being not available from the Authority; or

(b) the prices of such drugs and medical supplies as provided by the Authority significantly exceeds the prices offered by other commercial entities by such per centum margin as may be prescribed.

(4) Despite subsection (3), where a national or county public health facility purchases drugs and medical supplies from commercial entities other than the Authority, the national or county public health facility shall ensure that–

(a) the commercial entity is duly registered by the Board; and

(b) the drugs and medical supplies meet the standards of quality and are efficacious as authorized by the Board.

(5) A person responsible for the procurement and distribution of drugs and medical supplies in a national or county public health facility and who contravenes provisions of this section, commits an offence and is liable on conviction to a fine not exceeding two million shillings or to imprisonment for a term not exceeding five years, or to both.”

(Leader of the Majority Party)

Motion made and Question proposed –

THAT, the New Section 4be read a Second Time

Debate arising;

Amendment to the Amendment proposed:-

That, the proposed New Section 4 be amended by deleting the proposed new subsection 3 and the proposed new subsection 4, and substituting therefor the new subsection 3 as follows:-

“(3) A national or county public health facility shall, in the procurement and distribution of drugs and medical supplies, obtain all such drugs and medical supplies from the Authority subject to–

(a) the drug being duly registered by the Board; and

(b) the drugs and medical supplies meet the standards of quality and are efficacious as authorized by the Board.

(Leader of the Majority Party)

[proposed new subsection 5 consequently becomes new subsection 4]

Debate on the further Amendment to the further Amendment arising;

Question on the further Amendment to the further Amendment put and agreed to;

Debate on the further Amendment as amended resumed;

Question on the further Amendment as further amended put and agreed to;

Question proposed –

THAT, the Proposed New Section 4 be part of the Bill

Debate arising;

Question of the further amendment put and agreed to

Proposed New Section 4 **agreed to.**

Proposed New Section 4 - agreed to and introduced.

Bill to be reported with amendments;

12. HOUSE RESUMED - Third Chairperson in the Chair

The Health Laws (Amendment) Bill (National Assembly Bill No. 14 of 2018)

Bill reported with amendments;

Motion made and Question proposed -

THAT, the House do agree with the Committee of the Whole House in its Report.

(Leader of the Majority Party)

Question put and agreed to.

Motion made and Question proposed –

THAT, the Health Laws (Amendment) Bill (National Assembly Bill No. 14 of 2018) be now read a Third Time.

(Leader of the Majority Party)

Debate arising;

Question put and agreed to;

Bill read a Third Time and **passed.**

13. **THE SACCO SOCIETIES (AMENDMENT) BILL (NATIONAL ASSEMBLY BILL NO.1 OF 2018)**

Order for Second Reading read;

THAT, the Sacco Societies (Amendment) Bill (National Assembly Bill No.1 of 2018) be now read a Second Time

(The Leader of the Majority Party)

Debate arising;

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

Mover replied;

Question of the Motion deferred to another day

14. **THE STATUTE LAW (MISCELLANEOUS AMENDMENTS) (No.2)BILL(NATIONAL ASSEMBLY BILL NO. 13 OF 2018)**

Order for Second Reading read;

Order deferred to another sitting day.

15. **THE NATIONAL FLAGS, EMBLEMS AND NAMES (AMENDMENT) BILL (SENATEBILL NO. 8 OF 2017)**

Order for Second Reading read;

Order deferred to another sitting day.

16. **THE PARLIAMENTARY SERVICE BILL (NATIONAL ASSEMBLY BILL NO.6 OF 2018)**

Order for Second Reading read;

Order deferred to another sitting day

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

17. **HOUSE ROSE** - at Seven O'clock

MEMORANDUM

The Speaker will take the Chair on Thursday, November 8, 2018 at 2.30 p.m.