

SPECIAL ISSUE

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REPUBLIC OF KENYA

KENYA GAZETTE SUPPLEMENT

NATIONAL ASSEMBLY BILLS, 2021

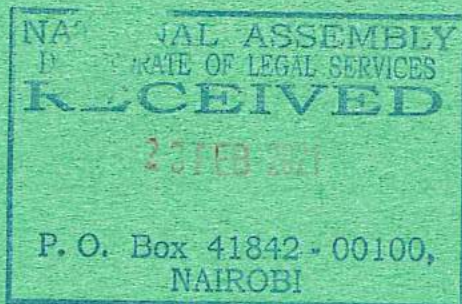
NAIROBI, 1st February, 2021

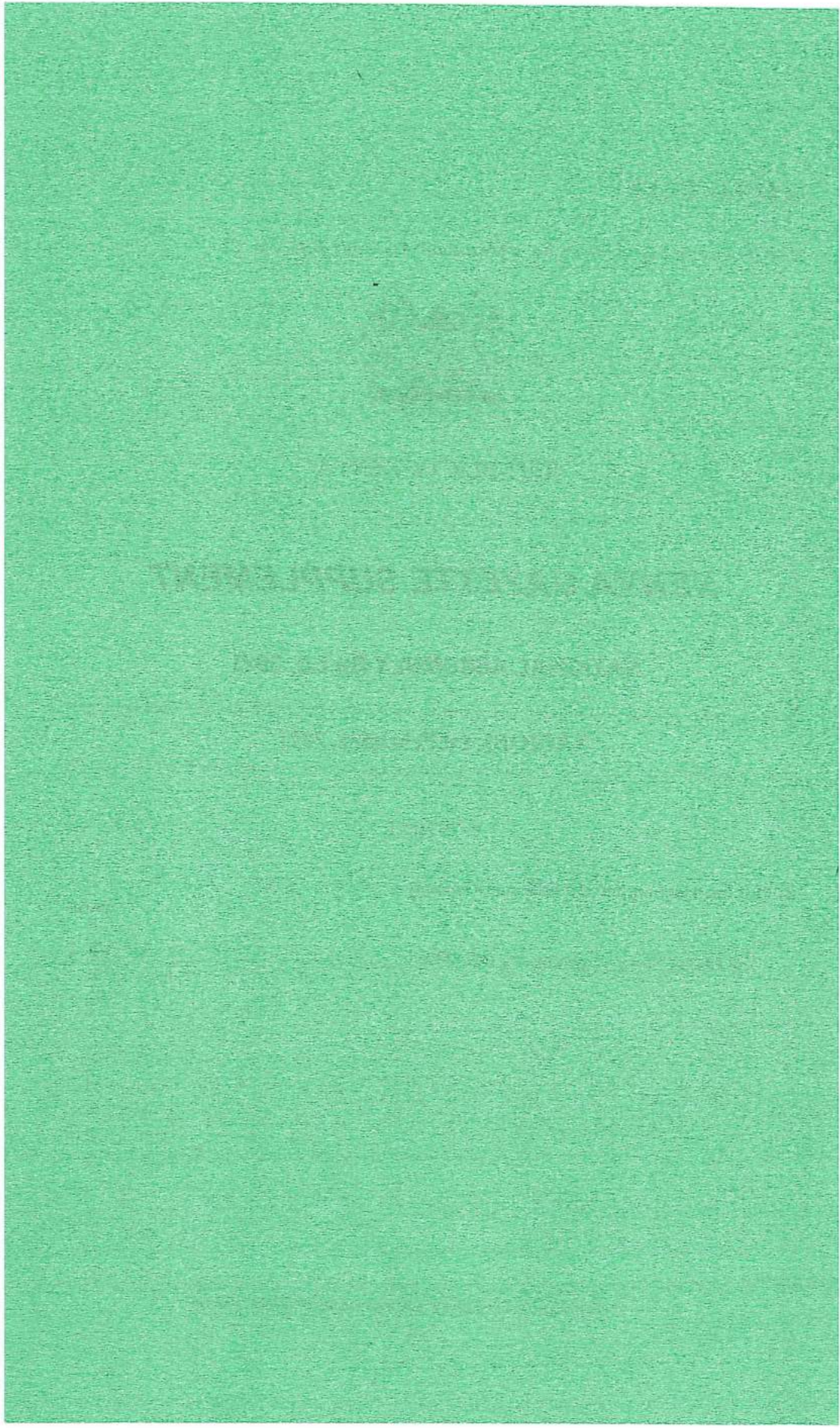
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THE HEALTH LAWS (AMENDMENT) BILL, 2021

A Bill for

AN ACT of Parliament to make amendments to health related laws

ENACTED by the Parliament of Kenya, as follows—

1. This Act may be cited as the Health Laws (Amendment) Act, 2021. Short title.

2. The several laws specified in the first column of the Schedule are amended in the provisions specified in the second column thereof, in the manner respectively specified in the third column. Amendment of written laws.

SCHEDULE

<i>Written Law</i>	<i>Provision</i>	<i>Amendment</i>
The Pharmacy and Poisons Act (Cap. 244)	s.3	Delete and substitute therefor the following new section—
	Establishment of Pharmacy and Poisons Board.	<p>3. (1) There is established a Board which shall consist of—</p> <p>(a) A non-executive chairperson who shall be appointed by the President;</p> <p>(b) the Principal Secretary in the ministry for the time being responsible for health, or his or her representative, appointed in writing;</p> <p>(c) the Principal Secretary in the Ministry for the time being responsible for finance, or his or her representative, appointed in writing;</p> <p>(d) the Attorney-General or his representative designated, in writing;</p>

(e) four other persons, not being public officers, of whom three must be from the pharmacy profession, appointed by the Cabinet Secretary by virtue of gender, disability, regional balance and their knowledge and experience in matters relating to accounting, pharmacy, business management, public health, economics, law or any other relevant field; and

(f) the Registrar who shall be the Chief Executive Officer and an *ex-officio* member of the Board.

(2) The persons to be appointed under subsection (1)(a) and (e) shall be selected through conventional board resourcing procedures including through applications, referrals and knowledge of the market and industry actors.

(3) A person appointed as a member of the Board under subsection (1)(a) and (e), shall serve for a term of three years and shall be eligible for reappointment for a further and final term of three years but may cease to be a member of the Board if—

(a) at any time the member resigns from office by giving notice, in writing, to the President or

Cabinet Secretary,
respectively;

- (b) has been absent from three consecutive meetings of the Board without permission of the chairperson;
- (c) is convicted of an offence and sentenced to imprisonment for a term exceeding six months or to a fine exceeding twenty thousand shillings; or
- (d) is incapacitated by prolonged physical or mental illness from performing his duties as a member of the Board.

s.4 Delete subsection (4) and substitute therefor the following new subsection—

(4) The quorum of the Board shall be two thirds of the members of the Board.

New Insert the following new section immediately after section 5—

Secretary to
the Board.

5A. (1) The Board shall competitively recruit a person qualified, in terms of the law governing the practice of public secretaries in Kenya, to serve as the Secretary to the Board.

(2) The Secretary to the Board shall—

- (a) in consultation with the chairperson of the Board, issue notices for

- meetings of the Board;
- (b) keep, in custody, the records of the deliberations, decisions and resolutions of the Board;
 - (c) transmit decisions and resolutions of the Board to the Chief Executive Officer for execution, implementation and other relevant action;
 - (d) provide guidance to the Board on their duties and responsibilities on matters relating to governance; and
 - (e) perform such other duties as the Board may direct.

s.35C	Delete.
s.35D	Delete.
s.35E	Delete.
s.35F	Delete.
s.35G	Delete.
s.35H	Delete.
s.35I	Delete.
s.35J	Delete.
s.35K	Delete.

The Mental
Health Act
(Cap. 248)

s.2. Insert the following new definition in its proper alphabetical sequence—

“Cabinet secretary” means the Cabinet Secretary for the time being responsible for matters relating to health;

Delete the definition of “Director” and

substitute therefor the following new definition—

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

No. 21 of 2017 the Health Act, 2017;

s.4(2) Delete paragraph (a) of subsection and substitute therefor the following new paragraph—

(a) a Chairman appointed by the Cabinet Secretary—

Delete the word “Minister” wherever it occurs and substitute therefor the expression “Cabinet Secretary”.

(3) Delete the word “Minister” wherever it occurs and substitute therefor the expression “Cabinet Secretary”.

s.5 Delete the word “Minister” wherever it occurs and substitute therefor the expression “Cabinet Secretary”.

s.7(1) Delete the word “Minister” wherever it occurs and substitute therefor the expression “Cabinet Secretary”.

(3) Delete the word “Minister” and substitute therefor the expression “Cabinet Secretary”.

s.8(2) Delete the word “Minister” wherever it occurs and substitute therefor the expression “Cabinet Secretary”.

s.9(1) Delete the word “Director” and substitute therefor the words “Director-General”.

(5) Delete the word “Minister” and substitute therefor the expression “Cabinet Secretary”.

s.20(1) Delete the word “Minister” wherever it occurs and substitute therefor the expression “Cabinet Secretary”.

(2) Delete the word “Minister” and substitute therefor the expression “Cabinet Secretary”.

- s.28(2) Delete the word "Minister" and substitute therefor the expression "Cabinet Secretary".
- s.33(3) Delete the word "Minister" and substitute therefor the expression "Cabinet Secretary".
- s.42(5) Delete the words "Attorney-General" and substitute therefor with the words "Director of Public Prosecutions".

s.53 Delete and substitute therefor the following new section—

General penalty. 53. Any person who is guilty of an offence under this Act, or who contravenes any of the provisions of this Act or any regulations made under this Act, shall where no other penalty is expressly provided, be liable on conviction to a fine not exceeding two hundred thousand shillings or to imprisonment for a term not exceeding twelve months or to both.

s. 3A Delete and substitute therefor the following new section—

Composition of the Council. 3A. (1) The Council shall consist of—

- (a) a non-executive chairperson who shall be appointed by the President;
- (b) the Principal Secretary in the ministry for the time being responsible for health, or his or her representative, appointed in writing;
- (c) the Principal Secretary in the Ministry for the time being responsible for

The Medical Practitioners and Dentists Act (Cap. 253)

finance, or his or her representative, appointed in writing;

- (d) the Attorney-General or his representative designated, in writing;
- (e) four other persons not being public officers, of whom three shall be from the medical and dental profession, appointed by the Cabinet Secretary by virtue of gender, disability, regional balance and their knowledge and experience in matters relating to finance or audit, medicine, public health, business management, economics, law or any other relevant field; and
- (f) the Registrar who shall be the Chief Executive Officer and an *ex officio* member of the Board.

(2) The persons to be appointed under subsection (1)(a) and (e) shall be selected through conventional board resourcing procedures including through applications, referrals and knowledge of the market and industry actors.

(3) A person appointed as a member of the Council under subsection (1)(a) and (e), shall serve for a term of three years and shall be eligible for reappointment for a further and final term of three years but may cease to be a member of

the Board if—

- (a) at any time the member resigns from office by giving notice, in writing, to the President or Cabinet Secretary, respectively;
 - (b) has been absent from three consecutive meetings of the Council without permission of the chairperson;
 - (c) is convicted of an offence and sentenced to imprisonment for a term exceeding six months or to a fine exceeding twenty thousand shillings; or
 - (d) is incapacitated by prolonged physical or mental illness from performing his duties as a member of the Council.
- (4) The quorum for the conduct of business at a meeting of the Council shall be two thirds of the members of the Board.
- (5) The chairperson shall preside at all meetings of the Council but in the absence of the chairperson the members present shall appoint one of their number to preside at the meeting.
- (6) The Council shall meet at least once in every three months.

(7) The Council may appoint suitable persons to assist in carrying out particular decisions of the Council or particular duties or investigations for the Council.

(8) The powers of the Council shall not be affected by any vacancy in the membership thereof.

(9) Subject to the provisions of this Act, the Council may regulate its own procedure.

s. 4D. Delete and substitute therefor the following new sections—

Corporation
Secretary.

4D. (1) The Council shall competitively recruit a person qualified, in terms of the law governing the practice of public secretaries in Kenya, to serve as the Corporation Secretary.

(2) The Corporation Secretary shall—

- (a) in consultation with the chairperson of the Council, issue notices for meetings of the Council;
- (b) keep, in custody, the records of the deliberations, decisions and resolutions of the Council;
- (c) transmit decisions and resolutions of the Council to the Chief Executive Officer for execution, implementation and other relevant action;
- (d) provide guidance to the

Council on their duties and responsibilities on matters relating to governance; and

(e) perform such other duties as the Council may direct.

Staff of the Council.

4E. The Council may employ such professional, technical and other staff as may be necessary for the proper and efficient discharge of its functions on such terms as the Council may, in consultation with the relevant Government agencies, determine.

s.15 Insert the following new subsection immediately after subsection (10)—

(10A.) The Council shall accredit all health facilities or institutions registered under the Act.

The Nurses Act
(Cap. 257)

s.4 Delete and substitute therefor the following new section—

Membership of the Council. 4. (1) The Council shall consist of—

(a) a non-executive chairperson who shall be appointed by the President;

(b) the Principal Secretary in the ministry for the time being responsible for health, or his or her representative, appointed in writing;

(c) the Principal Secretary in the ministry for the time being responsible for finance, or his or her representative, appointed in writing;

(d) the Attorney-General or his

representative designated, in writing;

- (e) four other persons, not being public officers, three of whom shall be from the nursing and midwifery profession, appointed by the Cabinet Secretary by virtue of gender, disability, skills mix, regional balance and their knowledge and experience in matters relating to finance or audit, nursing, business management, public health, midwifery or any other relevant field; and
- (f) the Registrar who shall be the Chief Executive Officer and an *ex-officio* member of the Council.

(2) The persons to be appointed under subsection (1)(a) and (e) shall be selected through conventional board resourcing procedures including through applications, referrals and knowledge of the market and industry actors.

(3) A person appointed as a member of the Council under subsection (1)(a) and (e), shall serve for a term of three years and shall be eligible for reappointment for a further and final term of three years but may cease to be a member of the Council if—

- (a) at any time the member resigns from office by giving notice, in writing, to the President or

Cabinet Secretary, respectively;

- (b) has been absent from three consecutive meetings of the Council without permission of the chairperson;
- (c) is convicted of an offence and sentenced to imprisonment for a term exceeding six months or to a fine exceeding twenty thousand shillings; or
- (d) is incapacitated by prolonged physical or mental illness from performing his duties as a member of the Council.

s.5 Delete.

s.6 Delete.

s.26(j) Delete.

The Kenya
Medical Training
College Act
(Cap. 261)

s.9(1)(e) Delete and substitute therefor the following new paragraph—

(e) the Attorney-General or his representative designated, in writing;

The National
Hospital
Insurance Fund
Act
(No. 9 of 1998)

s.2 Delete the definition of the word “the Minister”.

Insert the following new definition in its proper alphabetical sequence—

“the Cabinet Secretary” means the Cabinet Secretary for the time being responsible for matters relating to health.

s.4(1) Delete and substitute therefor the following subsection—

Establishment
of Board.

4. (1) There is established a Board to be known as the National Hospital Insurance Fund Board of Management which shall consist of—

- (a) a non-executive chairperson who shall be appointed by the President;
- (b) the Principal Secretary in the ministry for the time being responsible for health, or his or her representative, appointed in writing;
- (c) the Principal Secretary in the ministry for the time being responsible for matters relating to finance or his or her representative, appointed in writing;
- (d) the Attorney-General or his designated representative, appointed in writing;
- (e) one person nominated by the umbrella body representing the employers;
- (f) one person nominated by the umbrella body representing the trade unions;
- (g) one person, not being a governor, nominated by the Council of Governors;
- (h) one other person, not being a public officer, appointed by the Cabinet Secretary by virtue of gender, disability, regional balance and their knowledge and experience

in matters relating to finance or audit, medicine, business management, public health, economics, insurance, law or any other relevant field; and

(i) the Chief Executive Officer who shall be an *ex officio* member of the Board.

New Insert the following new subsection immediately after subsection (1)—

(1A) The persons to be appointed under subsection (1)(a) and (e) shall be selected through conventional board resourcing procedures including through applications, referrals and knowledge of the market and industry actors.

s.5(c) Delete the word “Minister” and substitute therefor the words “Cabinet Secretary”.

(f) Delete the word “Minister” and substitute therefor the words “Cabinet Secretary”.

s.6(a) Delete the word “Minister” appearing in the proviso and substitute therefor the words “Cabinet Secretary”.

s. 9 Delete the word “Minister” and substitute therefor the words “Cabinet Secretary”.

s.15(1)(c) Delete the word “Minister” and substitute therefor the words “Cabinet Secretary”.

(3) Delete the word “Minister” and substitute therefor the words “Cabinet Secretary”.

(4) Delete the word “Minister” and substitute therefor the words “Cabinet Secretary”.

(5) Delete the word “Minister” wherever it occurs and substitute therefor the words “Cabinet Secretary”.

New Insert the following new section immediately after section 22—

Universal
Health
Coverage
Scheme.

22A. (1) There is established a Scheme to be known as the Universal Health Coverage Scheme.

(2) The purpose of the Universal Health Coverage Scheme shall be to facilitate access to quality, promotive, preventive, curative, rehabilitative, and palliative health services based on need, social and financial risk protection.

(3) Notwithstanding the generality of subsection (2) the objectives of the Universal Health Coverage Scheme shall be—

(a) to ensure equity utilization relative to needs, with financial contributions on the basis of ability to pay, without imposing a barrier to access at the point of care and effective sharing of risks among the vulnerable and indigent persons;

(b) to strengthen access to needed health services by ensuring vulnerable and indigent persons receive integrated cost-effective interventions addressing common needs and illnesses;

(c) to ensure quality health services through efficiency of use and equity in the availability of health system resources;

(d) to expand protection to all persons by providing

financial risk protection to safeguard them from financial and economic loss emanating from ill health in order to reduce the over-reliance on out of pocket payments; and

(e) mobilize adequate allocations and efficient utilization of resources for the delivery of health services.

Membership to the Scheme.

22B. The Universal Health Coverage Scheme shall consist of members who are already making voluntary and mandatory contributions and the indigents and vulnerable persons who shall be identified to benefit from government subsidies in the manner as may be prescribed.

Identification of beneficiaries.

22C. The persons to benefit from government subsidies shall be identified through the relevant State Department which manages safety net programs in liaison with the ministry responsible for health and the respective counties.

Administration of the Scheme

22D. (1) The Universal Health Coverage Scheme shall be administered by the Board and together with the other schemes being run and administered by the Fund.

(2) The Scheme shall ultimately, give rise to a single consolidated national scheme that is unified, and provides an explicit health benefit package to all citizens irrespective of the amount paid under a single

scheme under the Act, for efficiency and to allow effective cross-subsidization across the entire population.

(3) The Board shall in consultation with the Cabinet Secretary, prescribe—

(a) cost effective treatment guidelines that take into account, the emerging technologies;

(b) the nature of how the scheme shall operate including the mechanisms of person identification and protocols for entity management; and

(c) anything requiring to be prescribed.

- s.26 Delete the word “Minister” and substitute therefor the words “Cabinet Secretary”.
- s.27 Delete the word “Minister” and substitute therefor the words “Cabinet Secretary”.
- s.29(1) Delete the word “Minister” and substitute therefor the words “Cabinet Secretary”.
- s.30(1) Delete the word “Minister” and substitute therefor the words “Cabinet Secretary”.
- (3) Delete the word “Minister” and substitute therefor the words “Cabinet Secretary”.
- s.31(1) Delete the word “Minister” and substitute therefor the words “Cabinet Secretary”.
- s.34(1) Delete the word “Minister” appearing in the proviso and substitute therefor the words “Cabinet Secretary”.
- s.36 Delete the word “Minister” and substitute therefor the words “Cabinet Secretary”.

- s.37 Delete and substitute therefor the following new section—
- Accounts and audit. **37.** (1) The Board shall cause to be kept all proper books and records of account of the income, expenditure, assets and liabilities of the Fund.
- (2) The accounts of the Board shall be audited and reported upon in accordance with the Public Finance Management Act, 2012 and the Public Audit Act, 2015.
- No. 18 of 2012 Act, 2012 and the Public Audit No. 34 of 2015 Act, 2015.
- s.38 Delete the word “Minister” and substitute therefor the words “Cabinet Secretary”.
- New Insert the following new section immediately after section 45—
- Supersession. **45A.** Where there is conflict between the provisions of this Act and the provisions of any written law with regard to the powers or functions of the Board under this Act, the provisions of this Act shall prevail.
- First Schedule paragraph 6 Delete the word “Minister” appearing in the proviso and substitute therefor the words “Cabinet Secretary”.
- Second Schedule Paragraph 2(a) Delete the word “Minister” and substitute therefor the words “Cabinet Secretary”.
- (b) Delete the word “Minister” and substitute therefor the words “Cabinet Secretary”.
- Paragraph 3(4) Delete the word “nine” and substitute therefor the word “five”.

The Medical
Laboratory
Technicians and
Technologists
Act
(No. 10 of 1999)

s.2 Delete the definitions of “Association” and
“Minister”.

Insert the following new definition in its
proper alphabetical sequence—

“Cabinet Secretary” means the Cabinet
Secretary for the time being responsible for
matters relating to health.

s.6 Delete and substitute therefor the following
new section—

Membership of 6. (1) The Board shall consist
of the Board of—

- (a) a non-executive
chairperson who shall be
appointed by the
President;
- (b) the Principal Secretary
for the time being
responsible for matters
relating to health or his
or her representative,
appointed in writing;
- (c) the Principal Secretary in
the ministry for the time
being responsible for
finance, or his or her
representative, appointed
in writing;
- (d) the Attorney-General or
his designated
representative, in writing;
- (e) four other persons, not
being public officers, of
whom three shall be from
the medical laboratory
sciences’ profession,

appointed by the Cabinet Secretary by virtue of gender, disability, regional balance and their knowledge and experience in matters relating to medical laboratory sciences, finance or audit, medical research, business management, law or any other relevant field; and

- (f) the Registrar who shall be the Chief Executive Officer and an *ex-officio* member of the Board.

(2) The persons to be appointed under subsection (1)(a) and (e) shall be selected through conventional board resourcing procedures including through applications, referrals and knowledge of the market and industry actors.

New

Insert the following new section immediately after section 10—

Secretary to the Board. **10A.** (1) The Board shall competitively recruit a person qualified, in terms of the law governing the practice of public secretaries in Kenya, to serve as the Secretary to the Board.

(2) The Secretary to the Board shall—

- (a) in consultation with the chairperson of the Board, issue notices for meetings of the Board;
- (b) keep, in custody, the records of the deliberations, decisions and resolutions of the

Board;

- (c) transmit decisions and resolutions of the Board to the Chief Executive Officer for execution, implementation and other relevant action;
- (d) provide guidance to the Board on their duties and responsibilities on matters relating to governance; and
- (e) perform such other duties as the Board may direct.

s.23(2) Delete the word "Minister" appearing in the proviso and substitute therefor the words "Cabinet Secretary".

s.24(4) Delete the word "Minister" wherever it occurs and substitute therefor the words "Cabinet Secretary".

s.25(2). Insert a new paragraph immediately after paragraph (b)—

(ba) the validation of all in-vitro diagnostics by the Board;

(3) Delete and substitute therefor the following new subsection—

(3) A person who breaches any term or condition prescribed by the Board under this section commits an offence and is liable on conviction to a fine not exceeding one million shillings, or imprisonment for a term not exceeding five years, or to both.

s.26(1)(a) Delete and substitute therefor the following new paragraph—

(a) a chairperson elected from amongst its members, who shall be a laboratory technician or technologist in private practice.

- (b) Delete the word “Minister” and substitute therefor the words “Cabinet Secretary”.
- s.35.(3) Delete the word “Minister” wherever it occurs and substitute therefor the words “Cabinet Secretary”.
- s.37 Delete and substitute therefor the following new section—
- Accounts and audit. **37.** (1) The Board shall cause to be kept all proper books and records of account of the income, expenditure, assets and liabilities of the Board.
- (2) The accounts of the Board shall be audited and reported upon in accordance with the Public Finance Management Act, 2012 and the Public Audit Act, 2015.
- No. 18 of 2012
No. 34 of 2015
- s.39 Delete the words “thirty thousand shillings” and substitute therefor the words “three hundred thousand shillings”.
- s.40 Delete the word “Minister” and substitute therefor the words “Cabinet Secretary”.

paragraph (f) Delete.

Schedule Delete the words “or re-election, as the case paragraph 1 may be”.

paragraph 2 Delete the word “Minister” and substitute therefor the words “Cabinet Secretary”.

paragraph 3(4) Delete and substitute therefor the following new subparagraph—

(4) Two thirds of the members of the Board shall constitute a quorum at any meeting.

s. 5 Delete and substitute therefor the following new section—

Establishment
of Board.

5. (1) There is established a Board to be known as the Tobacco Control Board which shall consist of—

- (a) a chairperson appointed by the President;
- (b) the Principal Secretary for the time being responsible for matters relating to health or his or her representative, appointed in writing;
- (c) the Principal Secretary for the time being responsible for matters relating to finance or his representative, appointed in writing;
- (d) the Attorney-General or his representative designated, in writing;
- (e) five other persons, not being public officers, appointed by the Cabinet Secretary by virtue of gender, disability, regional balance and their knowledge and experience in matters relating to finance or audit, public health, medical research, environmental health science, business management, economics, law or any other relevant field; and
- (f) the Chief Executive Officer or a who shall be

an *ex-officio* member and secretary to the Board.

(2) The persons to be appointed under subsection (1)(a) and (e) shall be selected through conventional board resourcing procedures including through applications, referrals and knowledge of the market and industry actors.

(3) No member of the Board shall directly or indirectly be affiliated to the tobacco industry or its subsidiaries.

(4) A member who fails to disclose his or her affiliation to the tobacco industry or its subsidiary commits an offence and shall be liable, on conviction, to a fine not exceeding one million shillings or imprisonment for a period not exceeding five years or both.

(5) A person appointed as a member of the Board under subsection (1)(a) and (e), shall serve for a term of three years and shall be eligible for reappointment for a further and final term of three years but may cease to be a member of the Board if—

- (a) at any time the member resigns from office by giving notice, in writing, to the President or Cabinet Secretary, respectively;
- (b) has been absent from three consecutive meetings of the

Board without permission of the chairperson;

(c) is convicted of an offence and sentenced to imprisonment for a term exceeding six months or to a fine exceeding twenty thousand shillings; or

(d) is incapacitated by prolonged physical or mental illness from performing his duties as a member of the Board.

(6) The chairperson shall preside at all meetings of the Board and, in the absence for any reason of the chairperson, the other members of the Board who are present at that meeting shall choose one among their number to act as the chairperson at the meeting.

(7) Two thirds of the members of the Board shall constitute a quorum at any meeting.

(8) The Board shall meet at least once in every three months.

(9) The powers of the Board shall not be affected by any vacancy in the membership thereof.

(10) The expenses of the Board shall be defrayed out of the monies provided by Parliament for that purpose.

(11) Subject to the provisions of this Act, the

Board may regulate its own procedure.

New Insert the following new section immediately after section 5—

Chief Executive Officer. **5A.** (1) There shall be a Chief Executive Officer of the Board who shall be competitively recruited by the Board and whose terms and conditions of service shall be determined by the Board in the instrument of appointment or otherwise in writing from time to time.

(2) A person shall be qualified to be appointed as the Chief Executive Officer if the person—

- (a) possesses at least a degree or its equivalent from a university recognized in Kenya;
- (b) has at least ten years professional administrative experience in matters related to health; and
- (c) meets the requirements Chapter Six of the Constitution.

(3) The Chief Executive Officer shall, subject to the directions of the Board, be responsible for the management of the day to day affairs of the Board.

The Nutritionists and Dieticians Act (No. 18 of 2007) s.2

Delete the definitions of “Kenya Coalition for Action in Nutrition”, “Kenya Medical Association” and “Nutrition Association of Kenya”.

s.5 Delete and substitute therefor the following new section—

The Council of the Institute.

5. (1) There is established the Council of the Institute.

(2) The Council shall consist of—

- (a) a non-executive chairperson who shall be appointed by the President;
- (b) the Principal Secretary in the ministry for the time being responsible for health, or his or her representative, appointed in writing;
- (c) the Principal Secretary in the ministry for the time being responsible for finance, or his or her representative, appointed in writing;
- (d) the Attorney-General or his representative designated, in writing;
- (e) four other persons, not being public officers, of whom three shall be from the nutrition and dietetics profession, appointed by the Cabinet Secretary by virtue of gender, disability, regional balance and their knowledge and experience in matters relating to finance or audit, accounting, nutrition or dietetics, business management,

economics, law or any other relevant field; and

- (f) the Chief Executive Officer who shall be an *ex-officio* member of the Board.

(3) The persons to be appointed under subsection (2)(a) and (e) shall be selected through conventional board resourcing procedures including through applications, referrals and knowledge of the market and industry actors.

(4) A person appointed as a member of the Council under subsection (2)(a) and (e), shall serve for a term of three years and shall be eligible for reappointment for a further and final term of three years.

(5) The Council may establish committees consisting of members of the Council to deal with such matters as the Council may specify.

(6) Subject to the First Schedule, the Council shall regulate its own procedures.

s.9 Delete and substitute therefor the following new section—

The Chief Executive Officer.

9. (1) There shall be a Chief Executive Officer of the Institute who shall be competitively recruited by the Council and on the terms and conditions of service determined by the Council in consultation with the relevant Government agencies, in

writing, in the instrument of appointment.

(2) A person shall qualify for appointment as the Chief Executive Officer if the person—

- (a) possesses at least a degree or its equivalent from a university recognized in Kenya;
- (b) has at least ten years professional administrative experience in matters related to health; and
- (c) meets the requirements Chapter Six of the Constitution.

(3) The Chief Executive Officer shall, subject to the directions of the Council, be responsible for the management of the day to day affairs of the Institute.

First
Schedule
paragraph
3(1)

Delete the expression “one-third” and substitute therefor the expression “two-thirds”.

The Cancer
Prevention and
Control Act
(No. 15 of 2012)

s.6(2) Delete and substitute therefor the following new subsection—

- (2) The Board shall consist of—
- (a) a chairperson appointed by the President;
 - (b) the Principal Secretary for the time being responsible for matters relating to health or his or her representative, appointed in writing;

- (c) the Principal Secretary for the time being responsible for matters relating to finance or his representative, appointed in writing;
- (d) the Attorney-General or his representative designated, in writing;
- (e) the secretary of the National Council for Science and Technology;
- (f) three other persons, not being public officers, appointed by the Cabinet Secretary by virtue of gender, disability, regional balance and their knowledge and experience in matters relating to finance or audit, medicine, pharmacy, medical research, business management, economics, law or any other relevant field; and
- (g) the Chief Executive Officer who shall be an *ex officio* member of the Board.

s.6(3) Delete and substitute therefor the following subsection—

(3) The persons to be appointed under subsection (2)(a) and (e) shall be selected through conventional board resourcing procedures including through applications, referrals and knowledge of the market and industry actors.

New Insert the following new section immediately after section 10—

Corporation Secretary. **10A.** (1) The Board shall competitively recruit a person qualified, in terms of the law governing the practice of public secretaries in Kenya, to serve as the Corporation Secretary.

(2) The Corporation Secretary shall—

- (a) in consultation with the chairperson of the Board,

issue notices for meetings of the Board;

- (b) keep, in custody, the records of the deliberations, decisions and resolutions of the Board;
- (c) transmit decisions and resolutions of the Board to the Chief Executive Officer for execution, implementation and other relevant action;
- (d) provide guidance to the Board on their duties and responsibilities on matters relating to governance; and
- (e) perform such other duties as the Board may direct.

Insert the following new definition in its proper alphabetical sequence—

The Public Health Officers (Training, Registration and Licensing) Act, 2013 (No.12 of 2013)

“Cabinet Secretary” means the Cabinet Secretary for the time being responsible for matters relating to health.

s.3(3) Delete and substitute therefor the following new subsection—

(3) The Council shall consist of—

- (a) a non-executive chairperson who shall be appointed by the President;
- (b) the Principal Secretary in the ministry for the time being responsible for health, or his or her representative, appointed in writing;

- (c) the Principal Secretary in the ministry for the time being responsible for finance, or his or her representative, appointed in writing;
- (d) the Attorney-General or his representative designated, in writing;
- (e) four other persons, not being public officers, of whom three shall be public health officers, appointed by the Cabinet Secretary by virtue of gender, disability, regional balance and their knowledge and experience in matters relating to finance or audit, public health, business management, accounting, economics, law or any other relevant field; and
- (f) the Registrar who shall be the Chief Executive Officer and an ex-officio member of the Council.

(4) Delete.

New Insert the following new section immediately after section 3—

Corporation Secretary. 3A. (1) The Council shall competitively recruit a person qualified, in terms of the law governing the practice of public secretaries in Kenya, to serve as the Corporation Secretary.

(2) The Corporation Secretary shall—

- (a) in consultation with the chairperson of the Board, issue notices for meetings of the Council;
- (b) keep, in custody, the records of the deliberations, decisions and resolutions of the Council;
- (c) transmit decisions and

resolutions of the Council to the Registrar for execution, implementation and other relevant action;

(d) provide guidance to the Council on their duties and responsibilities on a matters relating to governance; and

(e) perform such other duties as the Council may direct.

s.6 Delete and substitute therefor the following new section—

Appointment of members and tenure.

6. (1) The persons to be appointed under subsection (3)(a) and (e) shall be selected through conventional board resourcing procedures including through applications, referrals and knowledge of the market and industry actors.

(2) A person appointed as a member of the Council under subsections (3)(a) and (d) of this section, shall serve for a term of three years and shall be eligible for reappointment for a further and final term of three years.

(3) All appointments under this section shall be notified in the *Gazette*.

(4) The chairperson shall preside at all meetings of the Council but in the absence of the chairperson the members present shall appoint one of their number to preside at the meeting.

(5) A person appointed as a member of the Council under subsection (3)(a) and (d) may cease to be a member of the Council if—

- (a) at any time the member resigns from office by giving notice, in writing, to the President or Cabinet Secretary, respectively;
- (b) has been absent from three consecutive meetings of the Council without permission of the chairperson;
- (c) is convicted of an offence and sentenced to imprisonment for a term exceeding six months or to a fine exceeding twenty thousand shillings; or
- (d) is incapacitated by prolonged physical or mental illness from performing his duties as a member of the Council.

s.7 Delete.

s.23 Delete and substitute therefor the following new section—

Registrar.

23. (1) There shall be a Registrar of the Council who shall be competitively recruited by the Council and whose terms and conditions of service shall be determined by the Council in the instrument of appointment or otherwise in writing from time to time.

(2) A person shall be qualified to be appointed as the Registrar if the person—

- (a) possesses at least a degree or its equivalent from a university recognized in Kenya;
- (b) has at least ten years professional administrative experience in matters related to public health or environmental health; and
- (c) meets the requirements Chapter Six of the Constitution.

(3) The Registrar shall, subject to the directions of the Council, be responsible for the management of the day to day affairs of the Council.

Schedule, paragraph 1(4) Delete the word “eight” and substitute therefor the word “two-thirds”.

The Kenya Medical Supplies Authority Act, (No. 20 of 2013)

s. 5

Delete and substitute therefor the following new section—

Board of Directors.

5. (1) The Management of the Authority shall vest in a Board of Directors which shall comprise—

- (a) a non-executive chairperson who shall be appointed by the President;
- (b) the Principal Secretary in the ministry for the time being responsible for health, or his or her

- representative, appointed in writing;
- (c) the Principal Secretary in the ministry for the time being responsible for finance, or his or her representative, appointed in writing;
 - (d) the Attorney-General or his representative designated, in writing;
 - (e) one person, not being a governor, nominated by the Council of Governors;
 - (f) three other persons, not being public officers, of whom two shall be pharmacists experienced in drug and medical supplies, appointed by the Cabinet Secretary by virtue of gender, disability, regional balance and their knowledge and experience in matters relating to finance or audit, supply management, business management, economics, law or any other relevant field;
 - (g) the Chief Executive Officer who shall be an ex officio member of the Board.
- (2) The persons to be appointed under subsection (1)(a) and (f) shall be selected through conventional board

resourcing procedures including through applications, referrals and knowledge of the market and industry actors.

(3) A person appointed as a member of the Board under subsection (1)(a) and (f), shall serve for a term of three years and shall be eligible for reappointment for a further and final term of three years.

The Counsellors and Psychologists Act, 2014 (No. 14 of 2014)

s.2 Delete the definitions of “Council”, “Secretary” and “Society”.

s.4 Delete and substitute therefor with the following new section—

Composition of the Board. 4. (1) The Board shall consist of—

- (a) a non-executive chairperson who shall be appointed by the President;
- (b) the Principal Secretary in the ministry for the time being responsible for Health, or his or her representative, appointed in writing;
- (c) the Principal Secretary in the ministry for the time being responsible for finance, or his or her representative, appointed in writing;
- (d) the Attorney-General or his representative designated, in writing;

(e) four other persons, not being public officers, of whom three shall be from the counselling and psychology profession, appointed by the Cabinet Secretary by virtue of gender, disability, regional balance and their knowledge and experience in matters relating to finance or audit, accounting, counselling and psychology, business management, economics, law or any other relevant field; and

(f) the Registrar who shall be the Chief Executive Officer and *ex-officio* member of the Board.

(2) The persons to be appointed under subsection (1)(a) and (e) shall be selected through conventional board resourcing procedures including through applications, referrals and knowledge of the market and industry actors.

(3) A person appointed as a member of the Board under subsection (1)(a) and (e), shall serve for a term of three years and shall be eligible for reappointment for a further and final term of three years.

The
Physiotherapists
Act
(No. 20 of 2014)

s.6 Delete and substitute therefor the following new section—

Composition of
the Council.

6. (1) The Council shall consist of—

- (a) a non-executive chairperson who shall be appointed by the President;
- (b) the Principal Secretary in the ministry for the time being responsible for health, or his or her representative, appointed in writing;
- (c) the Principal Secretary in the ministry for the time being responsible for finance, or his or her representative, appointed in writing;
- (d) the Attorney-General or his representative designated, in writing;
- (e) the Director of the Kenya Medical Training college or a designated representative not below the level of Deputy Director;
- (f) three other persons, not being public officers, of whom three shall be from the physiotherapy profession, appointed by the Cabinet Secretary by virtue of gender, disability, regional balance and their knowledge and experience in matters relating to finance or audit, physiotherapy, business management, economics, law or any other relevant field; and
- (g) the Registrar who shall be an *ex-officio* member of the Council.

(2) The persons to be appointed under subsection (1)(a) and (e) shall be selected through conventional board resourcing procedures including through applications, referrals and knowledge of the market and industry actors.

(3) A person appointed as a member of the Council under subsection (1)(a) and (f) of this section, shall serve for a term of three years and shall be eligible for reappointment for a further and final term of three years.

.10(3)(a) Delete and substitute the following new paragraph—

(a) be the Chief Executive Officer of the Council;

New Insert the following new section immediately after section 10—

Corporation
Secretary.

10A. (1) The Council shall competitively recruit a person qualified, in terms of the law governing the practice of public secretaries in Kenya, to serve as the Corporation Secretary.

(2) The Corporation Secretary shall—

(a) in consultation with the chairperson of the Council, issue notices for meetings of the Council;

(b) keep, in custody, the records of the deliberations, decisions and resolutions of the Council;

(c) transmit decisions and resolutions of the Council to the Chief Executive Officer for execution,

implementation and other relevant action;

- (d) provide guidance to the Board on their duties and responsibilities on matters relating to governance; and
- (e) perform such other duties as the Council may direct.

The Health Records and Information Managers Act (No.15 of 2016).

s.2 Delete the definition of “Association”.

s.7 Delete and substitute therefor the following new section—

Composition of the Board.

7. (1) The Board shall consist of—

- (a) a non-executive chairperson who shall be appointed by the President;
- (b) the Principal Secretary in the ministry for the time being responsible for health, or his or her representative, appointed in writing;
- (c) the Principal Secretary in the ministry for the time being responsible for finance, or his or her representative, appointed in writing;
- (d) the Attorney-General or his representative designated, in writing;
- (e) four other persons, not being public officers, of

whom three shall be from the health records and information technology profession, appointed by the Cabinet Secretary by virtue of gender, disability, regional balance and their knowledge and experience in matters relating to finance or audit, accounting, health records and information technology, business management, economics, law or any other relevant field; and

(f) the Registrar who shall be the Chief Executive Officer and an *ex-officio* member of the Board.

(2) The persons to be appointed under subsection (1)(a) and (e) shall be selected through conventional board resourcing procedures including through applications, referrals and knowledge of the market and industry actors.

(3) A person appointed as a member of the Board under subsection (1)(a) and (e), shall serve for a term of three years and shall be eligible for reappointment for a further and final term of three years.

(4) The Board may establish committees consisting of members of the Board to deal with such matters as the Board may specify.

s.10 Delete.

New Insert the following new section immediately after section 14—

Corporation
Secretary.

14A. (1) The Board shall competitively recruit a person qualified, in terms of the law governing the practice of public secretaries in Kenya, to serve as the Corporation Secretary.

(2) The Corporation Secretary shall—

- (a) in consultation with the chairperson of the Board, issue notices for meetings of the Board;
- (b) keep, in custody, the records of the deliberations, decisions and resolutions of the Board;
- (c) transmit decisions and resolutions of the Board to the Chief Executive Officer for execution, implementation and other relevant action;
- (d) provide guidance to the Board on their duties and responsibilities on matters relating to governance; and
- (e) perform such other duties as the Board may direct.

s.28(1) Delete paragraph (a) and substitute therefor with the following new paragraph—

- (a) the chairperson of the Association of Medical Records Officers of Kenya,

or a nominee thereof who shall be the chairperson of the committee;

The Clinical
Officers
(Training,
Registration and
Licensing) Act
(No. 20 of 2017)

s.2 Delete the definition of “Kenya Clinical Officers Association”.

s.4 Delete and substitute therefor the following new section—

Composition of
the Council.

4. (1) The Council shall consist of—

- (a) a non-executive chairperson who shall be appointed by the President;
- (b) the Principal Secretary in the ministry for the time being responsible for health, or his or her representative, appointed in writing;
- (c) the Attorney-General or his representative designated, in writing;
- (d) the Director of the Kenya Medical Training college;
- (e) four other persons, not being public officers, of whom three shall be from the clinical medicine profession, appointed by the Cabinet Secretary by virtue of gender, disability, regional balance and their knowledge and experience in matters relating to finance or audit, clinical medicine, public health,

business management, accounting, economics, law or any other relevant field; and

- (f) the Registrar who shall be the Chief Executive Officer and an *ex-officio* member of the Council.

(2) The persons to be appointed under subsection (1)(a) and (e) shall be selected through conventional board resourcing procedures including through applications, referrals and knowledge of the market and industry actors.

(3) A person appointed as a member of the Council under subsections (1)(a) and (e) of this section, shall serve for a term of three years and shall be eligible for reappointment for a further and final term of three years.

(4) All appointments under this section shall be notified in the *Gazette*.

(5) The chairperson shall preside at all meetings of the Council but in the absence of the chairperson the members present shall appoint one of their number to preside at the meeting.

(6) A person appointed as a member of the Council under subsection (1)(a) and (e) may cease to be a member of the Council if—

- (a) at any time the member resigns from office by

giving notice, in writing, to the President or Cabinet Secretary, respectively;

(b) has been absent from three consecutive meetings of the Council without permission of the chairperson;

(c) is convicted of an offence and sentenced to imprisonment for a term exceeding six months or to a fine exceeding twenty thousand shillings; or

(d) is incapacitated by prolonged physical or mental illness from performing his duties as a member of the Council.

New Insert the following new section immediately after section 8—

Corporation
Secretary.

8A. (1) The Council shall competitively recruit a person qualified, in terms of the law governing the practice of public secretaries in Kenya, to serve as the Corporation Secretary.

(2) The Corporation Secretary shall—

(f) in consultation with the chairperson of the Board, issue notices for meetings of the Council;

(g) keep, in custody, the records of the deliberations, decisions and resolutions of the Council;

(h) transmit decisions and resolutions of the Council

to the Chief Executive Officer for execution, implementation and other relevant action;

- (i) provide guidance to the Council on their duties and responsibilities on matters relating to governance; and
- (j) perform such other duties as the Council may direct.

s.24(2) Delete paragraph (a) and substitute therefor the following new paragraph—

- (a) the chairperson of the Kenya Clinical Officers Association, or a nominee thereof who shall be the chairperson of the committee;

First
Schedule,
paragraph
1(5)

Delete the word “seven” and substitute therefor the word “two-thirds”.

The Health Act, 2017
(No. 21 of 2017)

s.30(1)(e) Delete.

- (i) Delete and substitute therefor the following new paragraph—

- (i) three other persons, not being public officers, appointed by the Cabinet Secretary by virtue of gender, disability, regional balance and their knowledge and experience in matters relating to finance or audit, human resource management, medicine, business management, economics, law or any other relevant field;

s. 33(2) Delete and substitute therefor the following new subsection—

- (2) A person shall be qualified to be appointed as the Chief Executive Officer to the Authority, if the person—

- (a) possesses at least a degree or its equivalent from a university recognized in Kenya;
- (b) has at least ten years' experience at management level; and
- (c) meets the requirements Chapter Six of the Constitution.

New Insert the following new section immediately after section 33—

Corporation
Secretary.

33A. (1) The Council shall competitively recruit a person qualified, in terms of the law governing the practice of public secretaries in Kenya, to serve as the Corporation Secretary.

(2) The Corporation Secretary shall—

- (a) in consultation with the chairperson of the Council, issue notices for meetings of the Council;
- (b) keep, in custody, the records of the deliberations, decisions and resolutions of the Council;
- (c) transmit decisions and resolutions of the Council to the Chief Executive Officer for execution, implementation and other relevant action;
- (d) provide guidance to the Council on their duties and responsibilities on matters relating to governance; and
- (e) perform such other duties as the Council may direct.

s. 46(1) Delete and substitute therefor the following new subsection—

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

- (a) a non-executive chairperson who shall be appointed by the President;
- (b) the Principal Secretary in the ministry for the time being responsible for health, or his or her representative, appointed in writing;
- (c) the Principal Secretary in the ministry for the time being responsible for finance, or his or her representative, appointed in writing;
- (d) the Attorney-General or his representative designated, in writing;
- (e) four other persons, not being public officers, appointed by the Cabinet Secretary by virtue of gender, disability, regional balance and their knowledge and experience in matters relating to finance or audit, business management, economics, law or any other relevant field; and
- (f) the Chief Executive Officer who shall be the Registrar and an *ex-officio* member.

New Insert the following new subsection immediately after subsection (1)—

(1A) The persons to be appointed under subsection (1)(a) and (e) shall be selected through conventional board resourcing procedures including through applications, referrals and knowledge of the market and industry actors.

s. 49(2) Delete and substitute therefor the following new subsection—

(2) A person shall be qualified to be appointed as the Chief Executive Officer to the Authority, if the person—

- (a) possesses at least a degree or its equivalent from a university recognized in Kenya;
- (b) has at least ten years' experience at management level; and
- (c) meets the requirements of Chapter Six of the Constitution.

New Insert the following new section immediately after section 49—

Corporation
Secretary.

49A. (1) The Board shall competitively recruit a person qualified, in terms of the law governing the practice of public secretaries in Kenya, to serve as the Corporation Secretary.

(2) The Corporation Secretary shall—

- (a) in consultation with the chairperson of the Board, issue notices for meetings of the Council;
- (b) keep, in custody, the records of the deliberations, decisions and resolutions of the Board;
- (c) transmit decisions and resolutions of the Board to the Chief Executive Officer for execution, implementation and other relevant action;
- (d) provide guidance to the Board on their duties and responsibilities on

matters relating to
governance; and

(e) perform such other duties
as the Board may direct.

First
schedule.

Delete the expression “clinical officer or
medical officer” appearing in the Note under
LEVEL 3: HEALTH CENTRE and
substitute therefor the words “registered
health practitioner”.

Delete the words “is a registered medical
practitioner with a Master's degree in a
health related field” appearing in the Note
under LEVEL 4: PRIMARY HOSPITAL
and substitute therefor the words “holds a
Master's degree in medicine, law, business
management, physical science, social
science or any other relevant field”.

Delete the words “is a registered medical
practitioner with a Master's degree in a
health related field” appearing in the Note
under LEVEL 5: SECONDARY
HOSPITAL and substitute therefor the
words “holds a Master's degree in medicine,
law, business management, physical science,
social science or any other relevant field”.

Delete the expression “is a registered
medical practitioner with a Master's degree
in a health related field” appearing in Note 1
under LEVEL 6: TERTIARY HOSPITAL
and substitute therefor the expression “holds
a Master's degree in medicine, law, business
management, physical science, social
science or any other relevant field”.

MEMORANDUM OF OBJECTS AND REASONS

The Health Law (Amendments) Bill, 2021 seeks to make various, wide ranging amendments to various health-related statutes on matters relating to health policy to improve efficiency, service delivery, realization of the Universal Health Coverage and the Big 4 Agenda, in line with the Constitution, the Health Act, 2017, the Mwongozo Code of Governance for State Corporations and other applicable laws.

The Bill contains proposed amendments to the following statutes—

The Pharmacy and Poisons Act (Cap. 244)

The Bill proposes to amend the Pharmacy and Poisons Act (Cap. 244) to align the appointment of the chairperson of the Board, Board members and the Corporation Secretary to the Constitution and the Mwongozo Code of Governance for State Corporations, to remove conditional nominations in the appointment of Board members in order to eliminate direct and indirect interests that have beset the nomination processes that have ended in the courts to save the tax payers the hugely expensive and litigious processes witnessed in the recent past.

The Bill proposes to repeal sections 35C, 35D, 35E, 35F, 35G, 35H, 35I, 35J and 35K which established the National Quality Control Laboratory as a body corporate within the Pharmacy and Poisons Board to bring to an end, incessant mandate overreach issues and perpetual litigation between the two entities, for it to be functional.

The Mental Health Act (Cap. 248)

The Bill proposes to amend the Mental Health Act to harmonize it with the Constitution by deleting the definition of the word “Minister” and substituting therefor the word “Cabinet Secretary” and also removing the expression “Attorney-General” in section 42(5) of the Act and substituting therefor the expression “Director of Public Prosecutions” and enhance the general penalty under the Act to reflect penalties in modern penal provisions.

The Medical Practitioners and Dentists Act (Cap 253)

The Bill proposes to amend the Medical Practitioners and Dentists Act (Cap. 253) to align the appointment of the chairperson of the Board, Board members and the Corporation Secretary to the Constitution and the Mwongozo Code of Governance for State Corporations, to remove conditional nominations in the appointment of Board members in order to eliminate direct and indirect interests that have beset the nomination processes that have ended in the courts to save the tax payers the hugely expensive and litigious processes witnessed in the recent past.

The Nurses Act (Cap. 257)

The Bill proposes to amend the Nurses Act (Cap. 257) to align the appointment of the chairperson of the Board, Board members and the Corporation Secretary to the Constitution and the Mwongozo Code of Governance for State Corporations, to remove conditional nominations in the appointment of Board members in order to eliminate direct and indirect interests that have beset the nomination processes that have ended in the courts to save the tax payers the hugely expensive and litigious processes witnessed in the recent past.

The Kenya Medical Training College Act (Cap. 261)

The Bill proposes to amend the Kenya Medical Training College Act (Cap. 261) to provide for the membership of the Attorney-General in the Board and to align the Board composition to the Mwongozo Code of Governance for State Corporations.

The National Hospital Insurance Fund Act (No. 9 of 1998)

The Bill proposes to amend the National Hospital Insurance Fund to align the appointment of the chairperson of the Board, Board members and the Corporation Secretary to the Constitution and the Mwongozo Code of Governance for State Corporations, to remove conditional nominations in the appointment of Board members in order to eliminate direct and indirect interests that have beset the nomination processes that have ended in the courts to save the tax payers the hugely expensive and litigious processes witnessed in the recent past.

Further the Bill proposes to amend the Act in order to provide for the establishment of the Universal Health Coverage Scheme. The proposed Universal Health Coverage Scheme shall primarily comprise of a national scheme for vulnerable and indigent persons to ensure their easier access to quality, promotive, preventive, curative, rehabilitative, and palliative health services based on need, social and financial risk protection.

The Bill also proposes deleting the definition of the word "Minister" and substituting therefor the word "Cabinet Secretary" for harmonization with the Constitution, to align the auditing and reporting of the accounts of the Fund with the Public Finance Management Act, 2012 (No. 18 of 2012) and Public Audit Act, 2015 (No. 34 of 2015) and provide for the supersession of the Act where there is a conflict between the provisions of the Act and any other written law.

The Medical Laboratory Technicians and Technologists Act (No. 10 of 1999)

The Bill proposes to amend the Medical Laboratory Technicians and Technologists Act, 1999 (Cap. 253A) by deleting the definition of the word "Minister" and substituting therefor the word "Cabinet Secretary" in order to align the Act to the Constitution and by removing the definition of "Association".

The Bill also proposes to align the appointment of the chairperson of the Board, Board members and the Corporation Secretary to the Constitution and the Mwongozo Code of Governance for State Corporations, to remove conditional nominations in the appointment of Board members in order to eliminate direct and indirect interests that have beset the nomination processes that have ended in the courts to save the tax payers the hugely expensive and litigious processes witnessed in the recent past.

Further, the Bill proposes to amend the Act to align the auditing and reporting of the accounts of the Board with the Public Finance Management Act, 2012 (No. 18 of 2012) and Public Audit Act, 2015 (No. 34 of 2015) and enhance the general penalty under the Act to reflect the current penalties in modern penal provisions.

The Tobacco Control Act (No. 4 of 2007)

The Bill proposes to amend the Tobacco Control Act (No. 4 of 2007) to provide for the appointment of the chairperson by the President and to remove the criteria spelt out for the appointment of a chairperson in the Act and to remove conditional nominations in the appointment of Board members to eliminate direct and indirect interests that have beset the nomination processes that have ended in the court and also provide for the position of the Chief Executive Officer who shall be an *ex-officio* member and secretary to the Board.

The Nutritionists and Dieticians Act (No. 18 of 2007)

The Bill proposes to amend the Nutritionists and Dieticians Act (No. 18 of 2007) to delete terms that have been defined in section 2 of the Act but have not been applied in the body of the Act.

The Bill proposes to align the appointment of the chairperson of the Board, Board members and the Corporation Secretary to the Constitution and the Mwongozo Code of Governance for State Corporations, to remove conditional nominations in the appointment of Board members in order to eliminate direct and indirect interests that have beset the nomination processes that have ended in the courts to save the tax payers the hugely expensive and litigious processes witnessed in the recent past and to provide for the office of the Chief Executive Officer.

The Cancer Prevention and Control Act (No. 15 of 2012)

The Bill proposes to align the appointment of the chairperson of the Board, Board members and the Corporation Secretary to the Constitution and the Mwongozo Code of Governance for State Corporations.

The Public Health Officers (Training, Registration and Licensing) Act, 2013 (No.12 of 2013)

The Bill proposes to amend the Public Health Officers(Training, Registration and Licensing) Act, 2013 (No.12 of 2013) to provide for the appointment of the chairperson by the President and to remove the criteria spelt out for the appointment of a chairperson in the Act and to remove conditional nominations in the appointment of Council members to eliminate direct and indirect interests that have beset the nomination processes that have ended in the court and also provide for the position of the Registrar who shall be an *ex-officio* member and secretary to the Council.

The Kenya Medical Supplies Authority Act, (No. 20 of 2013)

The Bill proposes to amend the Kenya Medical Supplies Authority Act, (No. 20 of 2013) to align the appointment of the chairperson of the Board, Board members and the Corporation Secretary to the Constitution and the Mwongozo Code of Governance for State Corporations.

The Counsellors and Psychologists Act (No. 14 of 2014)

The Bill proposes to amend the Counsellors and Psychologists Act (No. 14 of 2014) to align the appointment of the chairperson of the Board, Board members and the Corporation Secretary to the Constitution and the Mwongozo Code of Governance for State Corporations, to remove conditional nominations in the appointment of Board members in order to eliminate direct and indirect interests that have beset the nomination processes that have ended in the courts to save the tax payers the hugely expensive and litigious processes witnessed in the recent past.

The Physiotherapists Act (No. 20 of 2014)

The Bill proposes to amend the Physiotherapists Act (No. 20 of 2014) to align the appointment of the chairperson of the Board, Board members and the Corporation Secretary to the Constitution and the Mwongozo Code of Governance for State Corporations, to remove conditional nominations in the appointment of Board members in order to eliminate direct and indirect interests that have beset the nomination processes that have ended in the courts to save the tax payers the hugely expensive and litigious processes witnessed in the recent past.

The Health Records and Information Managers Act (No. 15 of 2016)

The Bill proposes to amend the Health Records and Information Managers Act (No. 15 of 2016) to align the appointment of the chairperson of the Board, Board members and the Corporation Secretary to the Constitution and the Mwongozo Code of Governance for State Corporations, to remove conditional nominations in the appointment of Board members in order to eliminate direct and indirect interests that have beset the nomination processes that have ended in the courts to save the tax payers the hugely expensive and litigious processes witnessed in the recent past.

The Clinical Officers (Training, Registration and Licensing) Act (No. 20 of 2017)

The Bill proposes to amend the Clinical Officers (Training, Registration and Licensing) Act (No. 20 of 2017) to align the appointment of the chairperson of the Board, Board members and the Corporation Secretary to the Constitution and the Mwongozo Code of Governance for State Corporations, to remove conditional nominations in the appointment of Board members in order to eliminate direct and indirect interests that have beset the nomination processes that have ended in the courts to save the tax payers the hugely expensive and litigious processes witnessed in the recent past.

The Health Act 2017 (No. 21 of 2017)

The Bill proposes to amend sections 30, 33, 46 and 49 of the Health Act, 2017 (No. 21 of 2017) to align the appointment of the chairperson of the Board/Council and Board/Council members and also to incorporate the Corporation Secretary to comply with the Constitution of Kenya and the Mwongozo Code of Governance for State Corporations.

The Bill also proposes to amend the First Schedule to the Act in the Notes under LEVEL 3: HEALTH CENTRES; LEVEL 4: PRIMARY HOSPITALS; LEVEL 5: SECONDARY HOSPITALS and LEVEL 6: TERTIARY HOSPITALS to remove the requirement of having the clinical officer or medical officer as the In-charge in LEVEL 3 health facilities and substituting therefor with "registered health practitioner" and removing the expression "registered medical practitioner" and substituting therefor the expression "holds a Master's degree in medicine, law, business management, physical science, social science or any other relevant field" for the In-charge in LEVELS 4, 5 and 6 health facilities.

Dated the 27th January, 2021.

AMOS KIMUNYA,
Leader of Majority Party.

Section 3 of Cap. 244 which it is proposed to amend—

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 matters relating to finance or his or her representative;
- (d) two persons representing the pharmacy training institutions, of which one shall be a pharmacist and one shall be a pharmaceutical technologist;
- (e) three other persons appointed by the Cabinet Secretary, of whom—
 - (i) one person shall be a pharmacist representing institutions of higher learning;
 - (ii) one person shall be a pharmaceutical technologist representing mid-level colleges; and
 - (iii) one person shall be an enrolled pharmaceutical technologist with expertise in community pharmacy nominated by the Kenya Pharmaceutical Association;
- (f) the Chief Executive Officer, who shall be an ex officio member; and
- (g) 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 (1) 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.

Section 4(4) of Cap. 244 which it is proposed to amend—

(4) The quorum of the Board shall be five, of whom three shall be pharmacists.

Section 35C of Cap. 244 which it is proposed to amend—

35C. Interpretation of Part In this Part, unless the context otherwise requires—

“Director” means the Director of the National Quality Control Laboratory appointed under section 35H;

“Laboratory” means the National Quality Control Laboratory established under section 35D.

Section 35D of Cap. 244 which it is proposed to amend—

35D. (1) There shall be established a National Quality Laboratory which shall be used as a facility for—

- (a) the examination and testing of drugs and any material or substance from or with which and the manner in which drugs may be manufactured, processed or treated and ensuring the quality control of drugs and medicinal substances;
- (b) performing chemical, biological, bio-chemical, physiological and pharmacological analysis and other pharmaceutical evaluation; and
- (c) testing, at the request of the Board and on behalf of the Government, of locally manufactured and imported drugs or medicinal substances with a view to determining whether such drugs or medicinal substances comply with this Act or rules made thereunder.

Section 35E of Cap. 244 which it is proposed to amend—

35E. The Laboratory shall be a body corporate with perpetual succession and a common seal and shall have power to sue and be sued in its corporate name and to acquire, hold and dispose of movable and immovable property for its own purposes.

Section 35F of Cap. 244 which it is proposed to amend—

35F. (1) There shall be a Board of Management for the Laboratory, which shall consist of nine members to be appointed by the Pharmacy and Poisons Board.

(2) A member of the Board of Management appointed under subsection (1) shall hold office for three years but shall be eligible for re-appointment.

(3) A quorum of the Board of Management shall be five members.

(4) The Board of management shall meet not less than four times each calendar year.

(5) The Director shall be the secretary of the Board of Management.

(6) Subject to this subsection, the Board of Management may regulate its own procedure.

Section 35G of Cap. 244 which it is proposed to amend—

35G. The functions of the Board of Management shall be—

- (a) to administer the property and funds of the Laboratory in such manner and for such purposes as shall, in the opinion of the Board of Management, promote its best interests;
- (b) to receive, on behalf of the Laboratory, grants-in-aid, gifts, donations, fees, subscriptions or other moneys and make disbursements therefrom;
- (c) to make regulations governing the appointment, conduct and discipline of employees of the Laboratory;
- (d) in consultation with the Cabinet Secretary, to draw up a scheme of service for employees of the Laboratory;
- (e) to administer the approved terms and conditions of service, including appointments, dismissals, remuneration and retiring benefits of employees of the Laboratory; and
- (f) to appoint such employees upon terms and conditions to be laid down by the Board of Management, after consultation with the Cabinet Secretary, as it considers necessary for the proper and efficient administration of the Laboratory.

Section 35H of Cap. 244 which it is proposed to amend—

35H. (1) The Board of Management shall appoint a Director who shall be the chief executive of the Laboratory responsible to the Board of Management for the day to day management of the Laboratory.

(2) The Director shall hold office on such terms and conditions of service as may be specified in the instrument of his appointment.

Section 35I of Cap. 244 which it is proposed to amend—

35I. The Director shall have power—

- (a) to develop and administer a data bank on quality assurance on behalf of the Board of management;
- (d) to advise and obtain advice from the Board of Management in regard to any matter within his purview under this Act.

Section 35J of Cap. 244 which it is proposed to amend—

35. (1) The funds to be used for the management of the Laboratory shall consist of all moneys received or recovered under this Part and moneys provided by Parliament.

(2) The Laboratory may accept gifts, donations, subscriptions, fees and other moneys for the implementation of approved programmes.

(3) The financial year of the Laboratory shall be the same as the Government financial year.

(4) The estimates for the expenditure of the Laboratory shall be submitted through the Cabinet Secretary for approval by the Treasury and shall make provisions for—

- (a) the payment of salaries, allowances and all other charges in respect of the employees of the Laboratory;
 - (b) the payment of pensions, gratuities and all other charges in respect of retirement benefits payable out of the funds of the Laboratory;
 - (c) the procurement, proper maintenance, repair and replacement of equipment and other immovable property of the Laboratory;
 - (d) the proper maintenance of the buildings and grounds of the Laboratory;
 - (e) the creation of such reserve funds to meet future or contingent liabilities in respect of retiring benefits, insurance or replacement of building, or equipment or in respect of such other matters as the Board of Management may think fit;
 - (f) the cost of Board of Management meetings; and
 - (g) capital expenditure.
- (5) The Board of Management shall cause to be kept and the Director shall keep all proper books of accounts of the Laboratory.

(6) The accounts of the Laboratory shall be audited by the Auditor-General (Corporations).

(7) The disposal of fixed assets by the Board of Management shall be subject to the approval of the Treasury.

Section 35K of Cap. 244 which it is proposed to amend—

35K. (1) A certificate of analysis shall be issued and signed by the Director for every analysis done.

(2) The certificate of analysis issued under subsection (1) shall be in the prescribed form.

Section 2 of Cap. 248 which it is proposed to amend—

2. In this Act, unless the context otherwise requires—

“Board” means the Kenya Board of Mental Health established under section 4;

“court” means the High Court;

“Director” means the Director of Medical Services;

“magistrate” means a magistrate holding a subordinate court of the first class;

“manager” means any person appointed under Part XII;

“medical practitioner” has the meaning assigned to that term in sections 2 and 3 of the Medical Practitioners and Dentists Act (Cap. 253);

“mental hospital” means a mental hospital established under section 9;

“person in charge”, in relation to a mental hospital, means the person for the time being authorized by the Director to be in medical charge of the mental hospital;

“person suffering from mental disorder” means a person who has been found to be so suffering under this Act and includes a person diagnosed as a psychopathic person with mental illness and person suffering from mental impairment due to alcohol or substance abuse;

“substance abuse” means the maladaptive pattern of use as indicated by either recurrent or continued use of any psychoactive substances (such as alcohol, amphetamines, *cannabis sativa*, cocaine, hallucinogens, inhalants, opioids, sedatives, hypnotics, or anxiolytics) where such use causes or exacerbates persistent or recurrent social, occupational, psychological or physical problems;

“treatment” includes medical treatment, nursing and care and training under medical supervision.

Section 4 of Cap. 248 which it is proposed to amend—

4. (1) There shall be established a Board to be known as the Kenya Board of Mental Health for the purposes of this Act.

(2) The Board shall consist of—

- (a) a chairman, who shall be the Director of Medical Services or a Deputy Director of Medical Services appointed by the Minister;
- (b) one medical practitioner with specialization and experience in mental health care appointed by the Minister;
- (c) one clinical officer with training and experience in mental health care appointed by the Minister;
- (d) one nurse with training and experience in mental health care appointed by the Minister;
- (e) the Commissioner for Social Services or, where the Commissioner cannot serve, his nominee appointed by the Minister;
- (f) the Director of Education or, where the Director cannot serve, nominee appointed by the Minister;
- (g) a representative of each of the provinces of Kenya being persons resident in the provinces, appointed by the Minister;
- (h) the Deputy Director of Mental Health;
- (i) the Chief Nursing Officer.

Section 5 of Cap. 248 which it is proposed to amend—

5. The functions of the Board shall, under the control of and direction of the Minister, be—

- (a) to co-ordinate the mental health care activities in Kenya;
- (b) to advise the Government on the state of mental health and mental health care facilities in Kenya;
- (c) to approve the establishment of mental hospitals;
- (d) to inspect mental hospitals to ensure that they meet the prescribed standards;
- (e) to assist, whenever necessary, in the administration of any mental hospital;

- (f) to receive and investigate any matter referred to it by a patient or a relative of a patient concerning the treatment of the patient at a mental hospital and where necessary to take, or recommend to the Minister, any remedial action;
- (g) to advise the Government on the care of persons suffering from mental sub normality without mental disorder;
- (h) to initiate and organize community or family based programmes for the care of persons suffering from mental disorder; and
- (i) to perform such other functions as may be conferred upon it by or under this or other written law.

Section 7 of Cap. 248 which it is proposed to amend—

7. (1) The Minister may, in consultation with the Board, appoint district mental health councils to perform, at the district level, such of the Board's functions as the Minister shall direct and report thereon to the Board in such manner as the Minister shall approve.

(3) The members of a district mental health council other than the district medical officer of health shall serve thereon at the Minister's pleasure but for not more than three years at one time and shall be eligible for re-appointment.

Section 8(2) of Cap. 248 which it is proposed to amend—

8. (2) There may be paid to the members of the Board, other than public officers in receipt of a salary, such allowances as the Minister, in consultation with the Minister for the time being responsible for finance, shall determine.

Section 9 of Cap. 248 which it is proposed to amend—

9. (1) A mental hospital authorized by the Director under section 2 of the Mental Treatment Act (Cap. 248 (1970) now repealed) shall be deemed to have been established under this Act.

(5) The Minister may, in consultation with the Board, make rules for the control and proper management of mental hospitals and may by such rules prescribe the standards to be maintained for mental hospitals.

Section 20 of Cap. 248 which it is proposed to amend—

20. (1) The Minister may, after consultation with the Minister for the time being responsible for Finance, by notice in the *Gazette*, prescribe the fees payable for admission of persons into Government mental hospitals under this Part and the manner of payment of those fees.

(2) A non-Government mental hospital admitting persons under this Part may charge such fees and in such manner as the Minister for the time being responsible for finance may from time to time approve in writing.

Section 28(2) of Cap. 248 which it is proposed to amend—

28. (2) The Minister, the Public Trustee or a manager may take out, as a matter of course, an application in chambers for the determination of any question arising out of the management of any estate in respect of which an order has been made under this Part.

Section 33(3) of Cap. 248 which it is proposed to amend—

33. (3) The Public Trustee shall report to the Minister annually on all accounts delivered to him under subsection (2).

Section 42(5) of Cap. 248 which it is proposed to amend—

(5) No criminal proceedings shall be commenced under this Act without the prior consent in writing of the Attorney-General.

Section 53 of Cap. 248 which it is proposed to amend—

53. Any person who is guilty of an offence under this Act, or who contravenes any of the provisions of this Act or of any regulations made under this Act shall, where no other penalty is expressly provided, be liable on conviction to a fine not exceeding ten thousand shillings or to imprisonment for a term not exceeding twelve months or to both.

Section 3A of Cap. 253 which it is proposed to amend—

253. (1) The Council shall consist of—

- (a) a chairperson who shall be appointed by the President and who shall—
 - (i) be a specialist medical or dental practitioner of good standing; and
 - (ii) have at least ten years' experience, five of which shall be in a managerial position;
- (b) the Director-General for Health or a designated representative;
- (c) four persons appointed by the Cabinet Secretary, nominated as follows—
 - (i) one person who shall be a representative of universities in Kenya which have the power to grant a qualification which is registerable under this Act;

- (ii) one person who shall be a representative of the Kenya Medical Association;
 - (iii) one person who shall be a representative of Kenya Dental Association; and
 - (iv) one person who shall be a representative of oral health practitioners;
- (d) three persons appointed by the Cabinet Secretary, as follows—
- (i) one person who shall be nominated by Kenya National Commission on Human Rights;
 - (ii) one person who shall be a representative of the private sector in health; and
 - (iii) one person with knowledge and expertise in finance or audit; and
- (e) the Chief Executive Officer who shall be the Registrar and an *ex-officio* member and also the secretary to the Council.

(2) A person appointed as a member of the Council under this Act, other than the *ex-officio* member, shall serve for a term of three years and shall be eligible for reappointment for a further and final term of three years.

(3) The chairperson shall preside at all meetings of the Council and, in the absence for any reason of the chairperson, the other members of the Council who are present at that meeting shall choose one of the members to act as the chairperson at the meeting.

(4) A member of the Council may—

- (a) at any time resign from office by giving thirty days' notice in writing to the chairperson;
- (b) be removed from office if the member—
 - (i) has been absent from three consecutive meetings of the Council without permission of the chairperson;
 - (ii) is convicted of an offence involving dishonesty or fraud;
 - (iii) is convicted of a criminal offence and sentenced to imprisonment for a term exceeding six months or more; or
 - (iv) is incapacitated by prolonged physical or mental illness or is deemed otherwise unfit to discharge his or her duties as a member of the Council.

(5) Six members of the Council shall constitute a quorum at any meeting.

(6) The powers of the Council shall not be affected by any vacancy in the membership thereof.

(7) The Council shall meet at least once in every three months.

(8) The chairperson, may, with prior approval of the Council, appoint suitable persons to assist in carrying out particular decisions of the Council or particular duties or investigations for the Council.

(9) Subject to the provisions of this Act, the Council may regulate its own procedure.

(10) Pursuant to nominations in paragraphs (1)(c) and (d), each organization shall present two nominees one of whom shall be appointed by the Cabinet Secretary taking into account ethnic diversity, gender, disability, skills mix and regional balance.

Section 4D of Cap. 253 which it is proposed to amend—

253. The Council may employ such professional, technical and other staff for the proper and efficient discharge of its functions on such terms and conditions as the Council may determine.

Section 15 of Cap. 253 which it is proposed to amend—

253. (1) A person or organization may apply to the Council for the registration of a health institution in the prescribed form which shall be accompanied by the prescribed fee.

(2) Where the applicant satisfies the Council that the institution meets the requirements for registration, the Council shall register the facility as an approved health institution.

(3) The Council shall issue to every approved health institution registered under this Act, a certificate of registration in the prescribed form.

(4) The Council shall issue in accordance with this section and rules made under this Act, a licence authorizing the use of any premises as a health institution.

(5) An application for a licence under subsection (4) shall be made to the Council in the prescribed form and accompanied by the prescribed fees and shall be made on or before the thirtieth of October of each practising year.

(6) A licence issued under this section shall bear the date of day on which it is issued and shall have effect from that date: Provided that a licence issued during the first month of any practising year shall have effect for all purposes from the beginning of that month.

(7) A licence issued under this section shall be displayed in a conspicuous place at the health institution to which the licence relates.

(8) A licence issued under this section shall specify the nature of services that may be provided by the health institution.

(9) The Council may decline to renew, cancel, withdraw or revoke any licence issued under this section, if it is satisfied that the health institution is being operated in a manner that contravenes any provisions of the Act or any regulations made under this Act.

(10) A health institution registered under this Act shall be inspected by the Council.

(11) No premise shall be used by any person as a health institution unless it is registered and licenced for such use by the Council.

Section 4 of Cap. 257 which it is proposed to amend—

257. (1) The Council shall consist of—

(a) the Director of Medical Services or his representative;

(b) the Director of Education or his representative;

(c) the Chief Nursing Officer or his representative;

(d) the Attorney-General or his representative;

(e) the following persons appointed by the Minister—

(i) one registered midwife, to be elected by registered midwives;

(ii) one registered community health nurse, to be elected by registered community health nurses;

(iii) one registered psychiatric health nurse, to be elected by registered psychiatric health nurses;

(iv) one registered general nurse, elected by registered general nurses;

(v) one nurse nominated by the National Nurses Association of Kenya;

(vi) one nurse nominated by the Kenya Progressive Nurses Association;

(vii) one registered nurse educator actively involved in the training of nurses nominated by recognized universities in Kenya;

(viii) two registered nurses nominated by registered religious organizations providing health services in Kenya;

(ix) one person with a professional background in human resource management;

(f) the chief executive officer of the Kenya Medical Training College or his representative.

(2) All nominations and elections under this section shall be in such manner as may be prescribed and all appointments shall be notified in the Gazette.

(3) The members of the Council appointed under paragraph (e) of subsection (1) shall hold office for a term of three years and shall be eligible for reappointment in accordance with the procedure set out in that paragraph for one further term.

Section 5 of Cap. 257 which it is proposed to amend—

257. (1) No person shall be qualified for appointment or election as a member of Council if—

(a) he is an undischarged bankrupt; or

(b) his name has been and remains removed from the appropriate register or his registration, enrolment or licence has been suspended under section 25(1).

(2) A member of the Council shall vacate his office if he—

(a) becomes subject to any of the disqualifications referred to in subsection (1); or

(b) has been absent from more than two consecutive ordinary meetings of the Council without its leave; or

(c) gives notice in writing to the Council of his desire to resign from office and his resignation is accepted.

(3) Every vacancy caused by the death of a member or by vacation of office under subsection (2) shall, in the case of a member appointed by the Minister, be filled by a person appointed by the Minister, and in every other case, unless the Council otherwise decides, shall be filled by a person appointed by the Council and every person so appointed shall hold office for the residue of the term for which his predecessor was appointed or elected.

Section 6 of Cap. 257 which it is proposed to amend—

257. (1) The Council shall once in each year elect from among its members a chairman and a vice-chairman who shall hold office in that year.

(2) The vice-chairman shall act as chairman whenever the chairman is unable to act and when so acting shall have the powers and discharge the duties of the chairman.

(3) If the chairman and the vice-chairman are both absent from any meeting of the Council, the members present shall elect one of their number present to preside at the meeting and the person so elected shall, during the absence from that meeting of the chairman and vice-chairman, have all the powers and discharge all the duties of the chairman.

(4) If the chairman or vice-chairman vacates his office before the period of his appointment expires, a new chairman or vice-chairman, as the case may be, shall be elected at the meeting of the Council next following the vacation of office for the unexpired portion of the period for which the chairman or vice-chairman whose seat has become vacant was elected.

Section 26(j) of Cap. 257 which it is proposed to amend—

(g) the procedure for election of those members of the Council who are required to be elected;

Section 9(1)(e) of Cap. 261 which it is proposed to amend—

261. The Board shall comprise the following—

(e) the Director General of Health or their designated representative;

Section 2 of No. 9 of 1998 which it is proposed to amend—

“the Minister” means the Minister for the time being responsible for matters relating to Health;

Section 4(1) of No. 9 of 1998 which it is proposed to amend—

4. (1) There shall be established a Board to be known as the National Hospital Insurance Fund Board of Management which shall consist of—

(a) a chairman to be appointed by the President by virtue of his knowledge and experience in matters relating to insurance, financial management, economics, health or business administration;

(b) the Principal Secretary in the ministry for the time being responsible for matters relating to Health or his representative;

- (c) the Principal Secretary to the Treasury or his representative;
- (d) the Principal Secretary/Director of Personnel Management or his representative;
- (e) the Director of Medical Services or his or her representative;
- (f) one person nominated by the Federation of Kenya Employers;
- (g) one person nominated by the Central Organisation of Trade Unions;
- (h) one person nominated by the Kenya National Union of Teachers and the Kenya Union of Post Primary Education Teachers in such manner as may be prescribed;
- (i) one person nominated by the Kenya Medical Association;
- (j) one person nominated by faith-based healthcare organisations in such a manner as may be prescribed.

Section 5 of No. 9 of 1998 which it is proposed to amend—

5. (1) The objects and functions of the Board shall be—
- (c) in consultation with the Minister, to set the criteria for the declaration of hospitals and to declare such hospitals in accordance thereto for the purposes of this Act;
 - (f) to advise the Minister on the national policy to be followed with regard to national health insurance and to implement all Government policies relating thereto; and

Section 6 of No. 9 of 1998 which it is proposed to amend—

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

- (a) manage, control and administer the assets of the Fund in such manner and for such purpose as best promotes the objects for which the Fund is established: Provided that the Board shall not charge or dispose of any immovable property without the prior approval of the Minister;

Section 9 of No. 9 of 1998 which it is proposed to amend—

9. The Board, in consultation with the Minister, shall pay members of the Board such remuneration, fees or allowances for expenses as the Board may determine.

Section 15 of No. 9 of 1998 which it is proposed to amend—

15. (1) Subject to this Act, any person—

(c) whose total income, whether derived from salaried or self-employment, in the immediately preceding month, was not less than such amount as the Board, in consultation with the Minister, may prescribe, shall be liable as a contributor to the Fund.

(3) A contribution under subsection (2) shall be at such rate, depending on the person's total income, as the Board, in consultation with the Minister, may determine.

(4) A person to whom this section applies shall pay the contribution to the Board on the first day of each month or on such later date as the Board, in consultation with the Minister, may prescribe.

(5) In this section, "income" means such income as the Board, in consultation with the Minister and the Minister for Finance may prescribe for the purposes of this Act.

Section 26 of No. 9 of 1998 which it is proposed to amend—

26. The Board may, in consultation with the Minister, make regulations providing for—

(a) any matters incidental to the payment and collection of any contributions under this Act, or to the issue of any stamps or to the issue or replacement of any cards under this Act;

(b) the refund of any contributions paid in error;

(c) the remission in whole or in part of penalties incurred under this Act, in such circumstances and subject to such conditions as may be prescribed;

(d) the giving of such rebates as may be prescribed to contributors who have no dependants or who fulfil such other conditions or requirements as may be prescribed in cases of voluntary contributions.

Section 27 of No. 9 of 1998 which it is proposed to amend—

27. Subject to the provisions of this Act, the Board, in consultation with the Minister, may make regulations prescribing the amount of any benefits and the period within which any benefits shall be payable out of the Fund for the time being and such regulations may provide for—

(a) any conditions or limitations subject to which any benefit shall be paid;

- (b) the manner of the making and determination of any claim to any benefit;
- (c) the postponement of any payment of benefit pending any relevant inquiry;
- (d) the authorisation of any person to claim a benefit on behalf of a contributor where such contributor is unable, for the time being, to do so;
- (e) the settlement of valid claims, which shall be within a period of one month from the date of submission of the claim.

Section 29 of No. 9 of 1998 which it is proposed to amend—

29. (1) Without prejudice to any specific power conferred by any provision of this Act, the Board may, in consultation with the Minister, make regulations facilitating the implementation of this Act, including in particular, regulations—

- (a) prescribing anything required to be prescribed under this Act;
- (b) prescribing the particulars, information, proof or evidence to be furnished as to any question or matter arising under this Act, including any question or matter relevant to the payment of contributions by or in respect of any person, or the making or validity of any claim or application for the payment of any benefit under this Act;
- (c) prescribing, in respect of any action required or permitted to be taken under this Act, the time and manner of taking that action, the procedure to be followed and the forms to be used.

Section 30 of No. 9 of 1998 which it is proposed to amend-

30. (1) The Board may, in consultation with the Minister and the chairman of the Medical Practitioners and Dentists Board, by notice in the *Gazette*, declare any hospital, nursing home or maternity home to be a hospital for the purposes of this Act.

(3) The Board may, at any time, after consulting the Minister, revoke any declaration under this section.

Section 31(1) of No. 9 of 1998 which it is proposed to amend-

31. (1) Subject to the provisions of this Act, the Board, in consultation with the Minister, may make regulations for the determination by the Board or by any officer thereof, or by a person or body of persons appointed or constituted in accordance with the regulations, of any question arising under or in connection with this Act,

including any claim for a benefit, and subject to the provisions of the regulations, a decision in accordance therewith shall be final.

Section 34 of No. 9 of 1998 which it is proposed to amend-

34. (1) All moneys in the Fund which are not immediately required to be applied for the purposes of this Act shall be invested—

- (a) in such investment in a reputable bank, being an investment in which trust funds, or part thereof, are authorised by law to be invested;
- (b) in the procurement and acquisition of essential medical equipment for provision to hospitals, on such terms and conditions as the Board may, from time to time, prescribe: Provided that the Board may advance money to any declared hospital for improvement of medical and health care services, subject to the Board being satisfied that such hospital is financially viable and in any underserved area, as may from time to time, be defined by the Minister.

Section 36 of No. 9 of 1998 which it is proposed to amend-

36. There shall be paid out of the Fund and in such manner as the Board, in consultation with the Minister may determine, such sum as the Board may estimate to be its expenditure in respect of any financial year in accordance with the provisions of section 35.

Section 37 of No. 9 of 1998 which it is proposed to amend-

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

(2) Within a period of three months after the end of each financial year, the Board shall submit to the Auditor-General (Corporations) or to an auditor appointed under subsection (3) of this section, the accounts of the Board together with—

- (a) a statement of income and expenditure during that year; and
- (b) a statement of the assets and liabilities of the Board on the last day of the financial year.

(3) The accounts of the Board shall be audited by the Auditor-General (Corporations) or by an auditor appointed by the Board with the approval of the Auditor-General (Corporations).

(4) The employment of an auditor shall not be terminated by the Board without the consent of the Auditor-General (Corporations).

(5) The Auditor-General (Corporations) may give general or special directions to an auditor appointed under subsection (3) of this section and the auditor shall comply with those directions.

(6) An auditor appointed under subsection (3) of this section shall report directly to the Auditor-General (Corporations) on any matter relating to the directions given under subsection (5) of this section.

(7) Within a period of six months after the end of the financial year, the Auditor General (Corporations) shall report on the examination and audit of the accounts to the Board and the Minister, and in the case of an auditor who has been appointed under subsection (3) of this section, the auditor shall transmit a copy of the report on the accounts to the Auditor-General (Corporations).

(8) Nothing in this Act shall be construed to prohibit the Auditor-General (Corporations) from carrying out an inspection of the Board's accounts or records if it appears to him desirable and the Auditor-General (Corporations) shall carry out such an inspection at least once every six months.

(9) Notwithstanding anything in this Act, the Auditor-General (Corporations) may transmit to the Minister a special report on any matters incidental to his powers under this Act, and section 19(3) and (4) of the Exchequer and Audit Act (Cap. 412) shall, mutatis mutandis apply to any report made under this section.

(10) The Minister shall lay the audit report before the National Assembly within nine months after the report has been submitted to him under this section.

(11) The fee for any auditor not being a public officer shall be determined and paid by the Board.

Section 38 of No. 9 of 1998 which it is proposed to amend—

38. The Board shall, within three months after the end of each financial year, prepare and submit to the Minister a report of the operations of the Board for the immediately preceding year.

First Schedule of No. 9 of 1998 which it is proposed to amend—

6. The annual estimates for the Fund for the financial year in which the appointed day occurs shall be deemed to be the annual estimates of the Board for the remainder of that financial year:

Provided that such estimates may be varied by the Board in such manner as the Minister may approve.

Second Schedule of No. 9 of 1998 which it is proposed to amend—

Vacation of office

2. A member other than the chairman or an *ex-officio* member may—

- (a) at any time resign from office by notice in writing to the Minister;
- (b) be removed from office by the Minister if the member—
 - (i) has been absent from three consecutive meetings of the Board without the permission from the chairman; or
 - (ii) is adjudged bankrupt or enters into a composition scheme or arrangement with his creditors; or
 - (iii) is convicted of an offence involving dishonesty or fraud; or
 - (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; or
 - (v) is incapacitated by prolonged physical or mental illness; or
 - (vi) is otherwise unable or unfit to discharge his functions.

Meetings

3. (4) The quorum for the conduct of the business of the Board shall be nine members excluding the Chief Executive Officer.

Section 2 of No. 10 of 1999 which it is proposed to amend—

Interpretation

2. In this Act, unless the context otherwise requires—

“**Association**” means the Association of Kenya Medical Laboratory Scientific Officers;

“**Minister**” means the Minister for the time being responsible for matters relating to health and “**ministry**” shall be construed accordingly;

Section 6 of No. 10 of 1999 which it is proposed to amend—

6. (1) The Board shall consist of—

- (a) the Director of Medical Services;
- (b) the head of the National Public Health Laboratories of the ministry;
- (c) the Registrar;

- (d) the Director of technical training in the ministry for the time being responsible for Education;
- (e) the medical laboratory technologist in charge of the Division of Vectorborne Diseases;
- (f) three registered laboratory technicians, two of whom shall be in private practice, to be elected by the Association;
- (g) three registered laboratory technologists, two of whom shall be in private practice, elected by the Association;
- (h) the executive chairman of the Association;
- (i) not less than three but not more than five laboratory technicians and technologists appointed by the Minister; and
- (j) not more than two other member co-opted by the Board from time to time whose knowledge and experience is deemed necessary for the better performance of its functions.

(2) The Minister shall appoint a chairman from among the members of the Board.

(3) The Board shall elect a vice-chairman from amongst its members, who shall be a laboratory technician or technologist in private practice.

Section 23(2) of No. 10 of 1999 which it is proposed to amend—

23. (2) The practising year shall be from 1st January to 31st December: Provided that the Board with the approval of the Minister may, by order in the Gazette, alter the practising year and the order may make such transitional provisions in regard to incidental matters as may be expedient.

Section 24(4) of No. 10 of 1999 which it is proposed to amend—

24. (4) Any laboratory technician or technologist aggrieved by the decision of the Board in the exercise of its powers under subsection (3) may appeal to the Minister within thirty days of the receipt of the decision and in every such case, the decision of the Minister shall be final.

Section 25 of No. 10 of 1999 which it is proposed to amend—

25. (2) Regulations under subsection (1) shall in particular provide for—

- (a) the equipment and reagents to be provided in private medical laboratories;
- (b) the services to be rendered by laboratory technicians and technologists in private practice; and

(c) the employment of laboratory technicians and technologists in private medical laboratories.

(3) A person who breaches any term or condition prescribed by the Board under this section commits an offence and shall be liable on conviction to a fine not exceeding one hundred thousand shillings, or imprisonment for a term not exceeding twelve months, or to both.

Section 26 of No. 10 of 1999 which it is proposed to amend—

26. (1) There is established a Disciplinary Committee of the Board which shall consist of—

(a) the chairman of the Association who shall be the chairman of the Committee;

Section 35(3) of No. 10 of 1999 which it is proposed to amend—

27. (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 Minister for approval, and after the Minister has given his approval, the Board shall not increase any sum provided in the estimates without the consent of the Minister.

Section 37 of No. 10 of 1999 which it is proposed to amend—

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

(2) Within a period of three months from the end of each financial year, the Board shall submit to the Auditor-General (Corporations) or an auditor appointed under subsection (3), the accounts of the Board together with—

- (a) a statement of income and expenditure during the year; and
- (b) a statement of the assets and liabilities of the Board on the last day of that year.

(3) The accounts of the Board shall be audited by the Auditor-General (Corporations) or by an auditor appointed by the Board under the authority of the Auditor-General (Corporations) given in accordance with subsection (2)(b) of the Exchequer and Audit Act (Cap. 412).

(4) The Auditor-General (Corporations) may give general or special directions to an auditor appointed under subsection (3) and the auditor shall comply with such directions.

(5) An auditor appointed under subsection (3) shall report directly to the Auditor-General (Corporations) on any matter relating to the directions given under subsection (4).

(6) Within a period of two months after the end of the financial year, the Auditor-General (Corporations) shall report on the examination and audit of the accounts of the Board to the Minister and where an auditor has been appointed under subsection (3) he shall transmit a copy of the report to the Auditor-General (Corporations).

(7) The fee payable to an auditor appointed under subsection (3), shall be fixed and paid by the Board.

Section 39 of No. 10 of 1999 which it is proposed to amend—

39. Any person convicted of an offence under this Act for which no penalty is provided shall be liable to a fine not exceeding thirty thousand shillings.

Section 40 of No. 10 of 1999 which it is proposed to amend—

40. The Board may, with the approval of the Minister, make regulations generally for the better carrying out of the provisions of this Act, and, without prejudice to the generality of the foregoing, such regulations may provide for—

- (f) the procedure for election of the members of the Board required to be elected; and

Schedule to No. 10 of 1999 which it is proposed to amend—

Tenure of office

1. A member of the Board other than an ex officio member shall, subject to the provisions of this Schedule, hold office for a period of three years, on such terms and conditions as may be specified in the instrument of appointment, but shall be eligible for re-appointment or re-election, as the case may be.

Vacation of office

2. A member other than the chairman or an ex officio member may—

- (a) at any time resign from office by notice in writing to the Board through the Registrar;
- (b) be removed from office by the Minister if the member—
 - (i) has been absent from three consecutive meetings of the Board without permission from the Board;
 - (ii) is convicted of a criminal offence and sentenced to imprisonment for a term exceeding six months or to a fine exceeding ten thousand shillings;

- (iii) is incapacitated by prolonged physical or mental illness; or
- (iv) is otherwise unable or unfit to discharge his functions.

Meetings

3. (4) The quorum for the conduct of the business of the Board shall be eleven members.

Section 5 of No. 4 of 2007 which it is proposed to amend-

5. (1) There is established a board to be known as the Tobacco Control Board which shall consist of—

- (a) a Chairperson appointed by the Minister;
- (b) the Director of Medical Services;
- (c) the Chief Public Health Officer;
- (d) the Director of Children's Services;
- (e) the Attorney-General;
- (f) the Director of Kenya Medical Research Institute;
- (g) the Director of Agriculture;
- (h) the Director-General of the National Environmental Management Authority;
- (i) the Planning Secretary for the time being responsible for matters relating to planning;
- (j) the Director of Local Authorities;
- (k) one person nominated by the Kenya Medical Association;
- (l) one representative of the business community in Kenya, to be nominated by the Kenya National Chamber of Commerce and Industry;
- (m) one representative of non-governmental organisations engaged in matters relating to tobacco control, to be nominated by the Non-Governmental Organisations Council;
- (n) one representative of religious organisations appointed by the Minister;
- (o) one representative of women's organisations to be nominated by the National Council of Women of Kenya;
- (p) one person nominated by the Law Society of Kenya.

(2) The members under paragraphs (b) to (i) may attend in person or designate a representative to attend on their behalf.

(3) No member of the Board shall directly or indirectly be affiliated to the tobacco industry or its subsidiaries.

(4) A member who fails to disclose his or her affiliation to the tobacco industry or its subsidiary commits an offence and shall be liable on conviction, to a fine not exceeding one million shillings or imprisonment for a period not exceeding five years or both.

(5) No person shall be qualified for appointment as the Chairperson of the Board under subsection (1)(a) unless such person—

(a) holds a degree from a university recognised in Kenya; and

(b) has at least fifteen years experience in public health, five of which shall be at a senior management level.

(6) The Chairperson shall hold office for four years, but shall be eligible for reappointment, for one further term.

(7) The Chief Public Health Officer or the representative shall be the secretary to the Board.

(8) The secretary to the Board shall, within thirty days of the commencement of this Act, convene the first meeting of the Board at which the members of the Board shall, from amongst their number, elect a Vice-Chairperson.

(9) A member of the Board, other than an ex officio member or chairperson, shall, subject to this section, hold office for a period of three years, but shall be eligible for reappointment for one further term.

(10) A member of the Board, other than an ex officio member may—

(a) at any time resign from office by notice in writing to the Minister; or

(b) be removed from office by the Minister if the member—

(i) is absent from three consecutive meetings of the Board without the permission of the Chairperson, or in the case of the Chairperson, without the permission of the Minister; or

(ii) is convicted of an offence and sentenced to imprisonment for a term exceeding six months without the option of a fine; or

(iii) is incapacitated by reason of prolonged physical or mental illness from performing his/her duties as a member of the Board; or

(iv) is adjudged bankrupt or has entered into a scheme or arrangement with his creditors.

(11) The quorum at a meeting of the Board shall be six members.

(12) The Chairperson shall preside at every meeting of the Board at which he is present but in his absence, the Vice-Chairperson shall preside: Provided that in the absence of both the Chairperson and the Vice-Chairperson, the members present shall elect one of their number who shall, with respect to that meeting and the business transacted thereat, have all the powers of the Chairperson.

(13) Unless a unanimous decision is reached, a decision on any matter before the Board shall be by a majority of the votes of the members present and in the case of an equality of votes, the Chairperson or the person presiding shall have a casting vote.

(14) Subject to subsection (11), no proceedings of the Board shall be invalid by reason only of a vacancy among the members.

(15) The Board may invite any person to attend a meeting of the Board for the purpose of assisting or advising the Board on any particular matter but such person shall have no right to vote at the meeting.

(16) The Board shall meet not less than four times in every financial year and not more than three months shall elapse between the date of one meeting and the date of the next meeting.

(17) Subject to this Act and to any general or special directions in writing by the Minister, the Board shall regulate its own proceedings. (18) The expenses of the Board shall be defrayed out of monies provided by Parliament for that purpose.

Section 2 of No. 18 of 2007 which it is proposed to amend—

2. In this Act, unless the context otherwise requires—

“Kenya Coalition for Action in Nutrition” means the association of that name registered under the Societies Act;

“Kenya Medical Association” means the association of that name registered under the Societies Act (Cap. 108);

“Nutrition Association of Kenya” means the association of that name registered under the Societies Act (Cap. 108);

Section 5 of No. 18 of 2007 which it is proposed to amend—

5. (1) The Council of the Institute is hereby established.

(2) The Council shall consist of—

(a) a chairperson who shall be appointed by the Cabinet Secretary and who shall—

- (i) be a holder of a bachelors' degree in nutrition or dietetics; and
- (ii) have at least ten years of professional experience after the first degree of which two years shall be at leadership and managerial level;
- (b) One qualified nutritionist or dietician professional with a minimum of a diploma in good standing from private practice who shall be appointed by the Cabinet Secretary;
- (c) the Director of Nutrition and Dietetics Services in the ministry responsible for health or their designated representative;
- (d) one representative of the Consumers Federation of Kenya, who shall be a holder of at least a bachelors' degree;
- (e) one representative of faculties teaching nutrition and dietetics at public universities who shall be competitively sourced and who shall be a holder of at least a masters' degree;
- (f) one representative from public and private middle level colleges, offering courses in nutrition or dietetics;
- (g) the Director General for health or their designated representative;
- (h) one member with technical knowledge and competencies in finance who shall be appointed by the Cabinet Secretary; and
- (i) the Chief Executive Officer as an *ex-officio* member.

(3) The chairperson and every member elected under subsection (2) shall hold office for a term of 3 years and shall be eligible for re-appointment for a further term of three years.

(4) All appointments under this section shall be notified in the Gazette by the Cabinet Secretary for the time being responsible for matters relating to health.

Section 9 of No. 18 of 2007 which it is proposed to amend—

9. (1) There shall be a Chief Executive Officer of the Institute who shall be competitively recruited by the Council and whose terms and conditions of service shall be determined by Public Service Commission.

(2) A person shall be qualified to be appointed as the Chief Executive Officer if the person—

- (a) possesses a Master of Science degree or its equivalent from a
- (b) university recognized in Kenya;
- (c) has at least ten years professional and administrative experience in matters related to health; and
- (d) meets the requirements of Chapter Six of the Constitution.

(3) The Chief Executive Officer shall hold office for a term of four years renewable once based on performance.

(4) The Chief Executive Officer shall, subject to the direction of the Council, be responsible for the management of the day to day affairs of the Institute.

First Schedule of No. 18 of 2007 which it is proposed to amend—

3. (1) Subject to this paragraph, the quorum at a meeting of the Institute shall be one-third of the members.

Section 6 of No. 15 of 2012 which it is proposed to amend—

(2) The Board shall consist of the following persons appointed by the Cabinet Secretary—

- (a) the Chairperson;
- (b) the Principal Secretary for the time being responsible for matters relating to health or his designated alternate not being below the level of Deputy Secretary;
- (c) the Principal Secretary for the time being responsible for matters relating to finance or his designate alternate not being below the level of Deputy Secretary;
- (d) one person nominated by the registered cancer associations in such manner as may be prescribed;
- (e) the Secretary of the National Council for Science and Technology or his designated alternate not being below the level of Deputy Secretary;
- (f) one person nominated by the Media Owners Association in such manner as may be prescribed;
- (g) one prominent philanthropist or industrialist of good standing;
- (h) one person nominated by the universities teaching medicine in such manner as may be prescribed;
- (i) one person nominated by institutions conducting medical research in such manner as may be prescribed;
- (j) the Attorney-General or his representative who shall be an *ex officio* member; and
- (k) the Chief Executive Officer who shall be an *ex officio* member and Secretary to the Board.

(3) No person shall be appointed under subsection (2)(a) unless such person is a registered medical practitioner and is a recognized medical specialist of not less than ten years' experience in leadership at national institutional level.

(4) Subject to this Act, all acts and things done in the name of, or on behalf of the Institute, by the Board or with the authority of the Board shall be deemed to have been done by the Institute.

(5) No person shall be appointed as a member of the Board unless such person meets the requirements of Chapter Six of the Constitution.

Section 3(3) of No.12 of 2013 which it is proposed to amend—

(3) The Council shall consist of—

(a) a chairperson appointed by the Cabinet Secretary who shall be—

(i) a public health officer of not less than ten years standing; and

(ii) the holder of a diploma, higher diploma or degree in public health;

(b) the Director of Medical Services or his representative;

(c) the Chief Public Health Officer who shall be the secretary to the Council;

(d) a representative of the ministry for the time being responsible for urban areas and cities appointed by the cabinet secretary in consultation with the Association;

(e) one public health officer from a local authority, appointed by the Cabinet Secretary;

(f) the Director, Kenya Medical Training College or his representative;

(g) a representative of the universities in Kenya which award a qualification which is registrable under this Act, nominated by the universities;

(h) the chairman of the Association;

(i) four public health officers who shall represent various public health specialties specified by the Association;

(j) one representative of the Kenya Bureau of Standards;

(k) one representative of the Physical Planners Registration Board; and

(l) one public health technician who shall be elected by the Association.

Section 4 of No.12 of 2013 which it is proposed to amend-

4. The Council shall elect a vice-chairperson from amongst its members.

Section 6 of No.12 of 2013 which it is proposed to amend-

6. The Chairman or a member of the Council, other than an ex officio member, shall hold office for a period of three years, on such terms and conditions as may be specified in the instrument of appointment but shall be eligible for re-appointment for a further one term.

Section 7 of No.12 of 2013 which it is proposed to amend-

7. A member of the Council, other than an ex officio member, may—

- (a) at any time resign from office by notice to the Council, through the Registrar;
- (b) be removed from office by the Cabinet Secretary if the member—
 - (i) has been absent from three consecutive meetings of the Council without the permission of the chairman;
 - (ii) is convicted of a criminal offence and sentenced to imprisonment for a term exceeding six months, or to a fine exceeding ten thousand shillings;
 - (iii) is incapacitated by prolonged physical or mental illness; or
 - (iv) is otherwise unable or unfit to discharge his functions.

Section 23 of No.12 of 2013 which it is proposed to amend—

23. The Chief Public Health Officer shall be the Registrar of the Council and shall perform such duties as are prescribed by this Act.

Schedule of No. 12 of 2013 which it is proposed to amend—

12. (4) The quorum for the conduct of the business of the Council shall be eight members.

Section 5 of No. 20 of 2013 which it is proposed to amend—

5. (1) The management of the Authority shall vest in a Board of Directors which shall comprise of—

- (a) a chairperson appointed by the President and who shall—
 - (i) have at least a university degree in a relevant discipline;
 - (ii) have at least fifteen years' experience in matters relating to healthcare, business management or public administration;
- and

- (iii) satisfy the requirements of Chapter Six of the Constitution.
- (b) the Principal Secretary of the ministry for the time being responsible for health or a representative designated in writing by the Principal Secretary;
- (c) the Principal Secretary, of the ministry for the time being responsible for finance or a representative designated in writing by the Principal Secretary;
- (e) three persons recruited and appointed by the Cabinet Secretary, one of whom shall at least hold a degree in pharmacy and two shall be from among persons who—
 - (i) have at least a university degree in a relevant discipline;
 - (ii) have at least ten years' experience in management or in the health sector; and
 - (iii) satisfy the requirements of Chapter Six of the Constitution.
- (ea) one person recruited by the Council of Governors and appointed by the Cabinet Secretary from among persons who—
 - (i) have at least a university degree in a relevant discipline;
 - (ii) have at least ten years' experience in management or in the health sector; and
 - (iii) satisfy the requirements of Chapter Six of the Constitution.
- (f) the chief executive officer of the Authority who shall be an ex officio member.

(4) In making the recruitment and appointment under subsection (3), the Cabinet Secretary shall ensure that the appointments fulfill the requirements of the gender and regional balance as enshrined in the Constitution and that at least one person is appointed from each of the following categories—

- (a) a procurement or supply chain management specialist;
- (b) a pharmacist experienced in drug and medical supplies management; and
- (c) one person with knowledge and experience in finance or commerce.

(5) The chairperson and the directors appointed under subsection (1)(e) shall, serve for a term of three years, and shall be eligible for re-appointment for one further term of three years.

(6) The procedure for the conduct of business and affairs of the Board shall be as set out in the Schedule.

(7) The persons referred to in subsection (1) (e) shall be appointed by the Cabinet Secretary, taking into account regional, gender and skills balance.

Section 2 of No. 14 of 2014 which it is proposed to amend—

“Council” means the Council of the Society provided for in section 19;

“Secretary” means the Secretary of the Council appointed under section 22;

“Society” means the Counsellors and Psychologists Society of Kenya established by section 15;

Section 4 of No. 14 of 2014 which it is proposed to amend—

4. The Board shall be composed of—

- (a) a chairperson appointed by the Cabinet Secretary who shall have—
 - (i) a minimum of a bachelors' degree in a relevant field; and
 - (ii) at least fifteen years' experience in counselling or psychology;
- (b) the Director General of Health or their designated representative;
- (c) the Principal Secretary in the ministry for the time being responsible for matters relating to finance;
- (d) two persons, who shall be counsellors or psychologists, representing training institutions appointed by the Cabinet Secretary, of whom—
 - (i) one shall represent middle level colleges; and
 - (ii) one shall represent institutions of higher learning;
- (e) two persons, one representing counsellors and the other representing psychologists, nominated by registered counsellors and psychologists;
- (f) one person from minorities and marginalized groups who shall be a counsellor or a psychologist and shall be nominated by the Cabinet Secretary; and

(g) the Registrar, who shall be an *ex officio* member and the secretary to the Board.

(2) For the first appointments under subsection (1) (e), upon the coming into force of this Act, the persons shall be elected by the organizations appearing to the Cabinet Secretary to be representative of the professions of counselling and psychology.

(3) All appointments under this section shall be by notice in the Gazette.

(4) A person shall not be appointed a member of the Board under subsection (1) (d), (e), (f) and (g) unless such person—

- (a) is a citizen of Kenya;
- (b) is of good character and good standing;
- (c) meets the requirements of Chapter Six of the Constitution.

(5) A person shall not be appointed as a chairperson of the Board under subsection (1) (a) unless such person—

- (a) has at least fifteen years' experience in counselling or psychology;
- (b) meets the requirements of Chapter Six of the Constitution.

(6) The Cabinet Secretary shall, in appointing the members of the Board under subsection (1), consider gender and regional balance, and the mix of skills and competencies required for the achievement of the organization's long-term goals.

(7) Pursuant to nominations in paragraphs (d) and (e) of subsection (1), each organization shall present two nominations one of whom shall be appointed by the Cabinet Secretary.

(8) The members of the Board appointed under paragraphs (d), (e) and (f) of subsection (1) shall hold office for a term of three years and shall be eligible for reappointment in accordance with the procedure set out for one further term

Section 6 of No. 20 of 2014 which it is proposed to amend—

6. The Council shall consist of—

- (a) the chairperson appointed by the Cabinet Secretary from amongst the persons nominated under paragraph (e);
- (b) a person from the ministry responsible for health with expertise in health appointed by the Cabinet Secretary;

- (c) the Director of the Kenya Medical Training College or a designated representative not below the level of Deputy Director;
- (d) one person with disability nominated by the National Council for Persons with Disabilities;
- (e) four physiotherapists competitively and transparently nominated by the Kenya Society of Physiotherapists from each of the following sectors—
 - (i) physiotherapists working in the private sector;
 - (ii) physiotherapists working in the county governments;
 - (iii) physiotherapists working in universities in Kenya which award the qualifications recognized by the Council under section 4;
 - (iv) a representative of the governing organ of the Kenya Society of Physiotherapists;
- (f) the Registrar who shall be the secretary to the Council.

(2) No person shall be appointed as chairperson of the Council unless such person is—

- (a) is registered under this Act as a physiotherapist; and
- (b) a physiotherapist of not less than ten years standing.

(3) Pursuant to section 6 (1) (e), the Kenya Society of Physiotherapists shall present two nominees from each of the categories given in (i), (ii), (iii) and (iv), one of whom will be appointed by the Cabinet Secretary taking into account diversity, gender, skills mix and regional balance.

(4) The members of the Council appointed under subsections (1) (a) and (e) shall hold office for a term of three years and shall be eligible for reappointment for one further term.

Section 10 of No. 20 of 2014 which it is proposed to amend—

(3) The Registrar shall—

- (a) be the secretary to the Council;

Section 2 of No. 15 of 2016 which it is proposed to amend—

2. In this Act, unless the context otherwise requires—

“Association” means the Association of Medical Records Officers of Kenya;

Section 7 of No. 15 of 2016 which it is proposed to amend—

7. (1) The Board shall consist of—

(a) a chairperson appointed by the Cabinet Secretary from among persons nominated from the public sector with knowledge and expertise in health and who shall have—

- (i) a minimum of a bachelors' degree in a relevant field; and
- (ii) ten years' relevant experience;

(b) the Director or Deputy Director Health Records and Information Management, ministry of health;

(c) two representatives, one from middle level training colleges and one from universities offering training in health records and information technology;

(d) three registered managers, who shall be competitively and transparently nominated and appointed by the Cabinet Secretary as representatives of—

- (i) the private sector;
- (ii) faith-based organizations; and
- (iii) the Association;

(e) one person with expertise in financial management or accounting and who shall be a bona-fide member of a professional body regulating the accountancy profession who is in compliance with the requirements thereof, appointed by the Cabinet Secretary;

✓ (f) the Secretary General of the Association;

(g) one other member co-opted by the Board from time to time whose knowledge and experience is deemed necessary for the better performance of its functions.

(2) The Registrar shall be the Chief Executive Officer and the Secretary to the Board.

(3) The Board shall appoint an audit committee and up to three (3) other committees that shall deal with matters of finance, risk, standards and education, registration and licensing, human resource, discipline and ethics for the effective performance of its functions, but may establish such other ad hoc committees as may be necessary for the carrying out of the functions of the Board.

(4) The appointments to the Board shall take into consideration gender and regional balance and the mix of skills and competencies required for the achievement of the Board's long-term goals.

(5) Pursuant to subsections (1) (c), (d) and (e), the organizations shall present two nominations from each of the categories, one of whom shall be appointed by the Cabinet Secretary taking into account gender balance, regional balance and skills mix.

Section 10 of No. 15 of 2016 which it is proposed to amend—

10. The members of the Board shall hold office for a period of three years from the date of their appointment, nomination or election, as the case may be but shall be eligible for re-appointment, re-nomination or re-election for one further term.

Section 28 of No. 15 of 2016 which it is proposed to amend—

28. (1) There is established a Disciplinary Committee of the Board, which shall consist of—

- (a) the chairman of the Board, or a nominee thereof who shall be the chairman of the Committee;

Section 2 of No. 20 of 2017 which it is proposed to amend—

2. In this Act, unless the context otherwise requires—

“Kenya Clinical Officers Association” means the Kenya Clinical Officers Association registered by the Registrar of Societies;

Section 4 of No. 20 of 2017 which it is proposed to amend—

4. (1) The Council shall consist of the following persons—

- (a) a chairperson appointed by the President and who shall have—

- (i) a relevant bachelors' degree from a recognized university;
- (ii) at least ten years' relevant experience;
- (iii) be registered as a clinical officer under this Act;

- (b) the Director General for health or his or her designated representative;

- (c) the Chief Clinical Officer;

- (d) one clinical officer elected by members of faculty of Clinical Medicine from Kenya Medical Training College;

- (e) one clinical officer representing the Kenya Clinical Officers Association who shall be nominated by the Association and appointed by the Cabinet Secretary;
- (f) one clinical officer representing universities training clinical officers, elected by the teaching staff from among their number;
- (g) the Registrar who shall be an *ex-officio* member and secretary to the Council;
- (h) two clinical officers, one in public practice and the other in private practice from each gender nominated by the Cabinet Secretary;
- (i) one person with knowledge and expertise in finance or audit appointed by the Cabinet Secretary; and
- (j) one person representing the public nominated by consumer organizations and appointed by the Cabinet Secretary.

(2) All appointments under this section shall be notified in the *Gazette*.

(3) The Cabinet Secretary shall, in appointing the members of the Council, uphold the principle of one-third and ensure the composition of the Board takes into account the marginalized and those with disabilities.

Section 24 of No. 20 of 2017 which it is proposed to amend—

24. (2) For the purposes of this Act, a person shall be deemed to engage in private practice if the person practices as a physiotherapist—

- (a) on the persons own account and is entitled to receive the entire amount of all fees and charges earned for the persons own financial benefit;

First Schedule of No. 20 of 2017 which it is proposed to amend—

Meetings

1. (5) The quorum for any meeting of the Council shall be seven members including the chairperson or the person presiding.

Section 30 of No. 21 of 2017 which it is proposed to amend—

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

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

- (b) three persons nominated by the public universities, private universities and mid-level institutions; and

Section 33(2) of No. 21 of 2017 which it is proposed to amend—

33. (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 Medical Practitioners and Dentists 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.

Section 46(1) of No. 21 of 2017 which it is proposed to amend—

46. (1) The Authority shall be administered by a Board of the 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 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 of Governors;
- (g) two representatives nominated by the health professional associations registered by the Registrar 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; and
- (j) the Chief Executive Officer, appointed by the Authority, through a competitive process and who shall be an ex officio member and the secretary to the Authority.

Section 49(2) of No. 21 of 2017 which it is proposed to amend—

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

- (a) is a health practitioner registered by the respective regulatory body;
- (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.

First Schedule of No. 21 of 2017 which it is proposed to amend—**TECHNICAL CLASSIFICATION OF LEVELS OF HEALTHCARE DELIVERY****LEVEL 3: HEALTH CENTRE**

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

LEVEL 4: PRIMARY HOSPITAL

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

LEVEL 5: SECONDARY HOSPITAL

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

LEVEL 6: TERTIARY HOSPITAL

Note:

1. The In-charge is a registered medical practitioner with a Master's 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 set criteria.