

SPECIAL ISSUE

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REPUBLIC OF KENYA

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NATIONAL ASSEMBLY BILLS, 2021

NAIROBI, 15th January, 2021

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**THE PHARMACY AND POISONS (AMENDMENT)
BILL, 2021**

A Bill for

**AN ACT of Parliament to amend the Pharmacy and
Poisons Act**

ENACTED by the Parliament of Kenya, as follows—

1. This Act may be cited as the Pharmacy and Poisons (Amendment) Act, 2021.

Short title.

2. Section 19 of the Pharmacy and Poisons Act is amended by deleting subsection (5) and substituting therefor the following new subsections—

Amendment of section 19 of Cap 224.

(5) A person shall not sell or dispense medicine to another person without a prescription signed by a registered health practitioner, medical practitioner, dentist or veterinary surgeon.

(6) Any person who contravenes subsection (5) shall be guilty of an offence and shall be liable upon conviction to a fine not exceeding thirty thousand shillings or to imprisonment to a term not exceeding three years or to both.

MEMORANDUM OF OBJECTS AND REASONS

The principal object of this Bill is to amend the Pharmacy and Poisons Act to prohibit the sale or dispensing of medicine without a written prescription from a registered health practitioner. This is aimed at safeguarding the health of all Kenyans and encourage them to always seek medical attention from qualified health practitioners notwithstanding that an ailment may be considered as minor. Sale of over the counter medication has always encouraged self-diagnosis of ailments without the benefit of medical advice from a health or medical practitioner. This endangers the lives of those who may consume harmful medication, suffer adverse reactions or even develop drug resistance owing to abuse or misuse of certain medications like antibiotics.

Statement on the delegation of legislative powers and limitation of fundamental rights and freedoms

The Bill does not delegate legislative powers nor does it limit fundamental rights and freedoms.

Statement that the Bill concerns County Governments

The Bill concerns County Governments in terms of Article 110 (1) (a) of the Constitution as it contains provisions that affect the functions and powers of County Governments recognized in the Fourth Schedule to the Constitution. The prohibition of dispensing or sale of medicine without a prescription will affect the functions of county health facilities and pharmacies.

Statement that the Bill is not a money Bill within the meaning of Article 114 of the Constitution

The enactment of this Bill will not occasion additional expenditure of public funds.

Dated the 30th November, 2020.

ALFRED KIPTOO KETER,
Member of Parliament.

Section 19 of Cap 244 which it is proposed to amend—

General restrictions as to unregistered persons

19. (1) No person other than a registered pharmacist shall, except as provided for in sections 21 and 22 of this Act—

- (a) carry on, either on his own behalf, or on behalf of another, the business of a pharmacist;
- (b) in the course of any trade or business, prepare, mix, compound or dispense any drug except under the immediate supervision of a registered pharmacist;
- (c) assume, take, exhibit or in any way make use of any title, emblem or description reasonably calculated to suggest that he is registered as a pharmacist.

(2) Any person who contravenes subsection (1) shall be guilty of an offence and liable to a fine not exceeding thirty thousand shillings or to imprisonment for a term not exceeding three years or to both.

(3) For the purpose of paragraph (c) of subsection (1) of this section, the use of any of the words “pharmacist”, “druggist”, “chemist”, “medical” or any similar word or combination of words in any language shall be deemed to be reasonably calculated to suggest that the owner of the business and the person having control of the business on the premises are registered pharmacists.

(4) Nothing in this section shall extend to or interfere with the supply of medicine to a particular person by a medical practitioner or his assistant working under his immediate supervision, direction and control, a qualified dentist or a qualified veterinary surgeon, for the purpose of legitimate medical treatment, dental treatment or veterinary treatment, as the case may be.

(5) Nothing in this section shall be deemed to make it unlawful for any person to sell any non-poisonous drugs provided that such drug is sold in its original condition as received by the seller or to require such person to be registered as a pharmacist.

