_bill for Introduction into the National Assembly--

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The Health Laws (Amendment) Bill, 2018 ........................................................................... 579

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THE HEALTH LAWS (AMENDMENT) BILL, 2018

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, 2018.

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.

SCHEDULE

<table>
<thead>
<tr>
<th>Written law</th>
<th>Provision</th>
<th>Amendment</th>
</tr>
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<tbody>
<tr>
<td>The Radiation Protection Act, (Cap. 243)</td>
<td>s.2</td>
<td>Insert the following new definitions in proper alphabetical sequence—</td>
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<tr>
<td></td>
<td></td>
<td>“nuclear material” means nuclear fuel, other than natural uranium and depleted uranium, capable of producing energy by a self-sustained chain process of nuclear fission outside a nuclear reactor, either alone or in combination with some other material and radioactive products or waste;</td>
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<td>“non-ionizing radiation” means optical radiation, radio frequency radiation, low frequency electric and magnetic fields, ultrasonic radiation and any other radiation with similar biological effects;</td>
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<td>“physical protection” means measures for the protection of nuclear material or facilities, designed to prevent unauthorized access, removal or sabotage of radioactive, nuclear or fissile material; and</td>
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<td>“radiation” means and includes both ionizing and non-ionizing radiation.</td>
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<td>s.3(2)</td>
<td>Delete the word “Minister” and substitute therefor the words “Cabinet Secretary”.</td>
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</table>
Renumber the existing provision as subsection (1).

Insert the following subsections immediately after subsection (1)—

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

(a) suing and being sued;

(b) taking, purchasing or otherwise acquiring, holding, charging or disposing of movable and immovable property;

(c) borrowing money or making investments;

(d) charging fees for services rendered by it and requesting for securities for such fees in consultation with the Cabinet Secretary; and

(e) doing or performing all other acts or things for the proper performance of its functions under this Act which may lawfully be done or performed by a body corporate.

(3) Upon the enactment of this section—

(a) all the funds, assets and other property both movable and immovable, which immediately before such date were vested in the former Board, shall by virtue of this subsection, vest in the new Board;

(b) all rights, powers and liabilities, whether arising under any written law or otherwise which immediately before such day were vested in, imposed on or enforceable against the former Board shall, by virtue of this subsection, be deemed to be vested in, imposed on or enforceable against the new Board;

(c) any reference in any written law or in any document or instrument to the
former Board, on and after the commencement day, be construed to be a reference to the new Board;

(d) the annual estimates of the former Board for the financial year in which the commencement day occurs shall be deemed to be the annual estimates of the new Board for the remainder of that financial year;

(e) the administrative directions made by the former Board or by the Cabinet Secretary which are in force immediately before the commencement day shall, on and after such day, have force as if they were directions made by the new Board or the Cabinet Secretary under this Act;

(f) any person who is an officer or employee of the former Board shall, immediately before the commencement day shall be deemed to be an officer or employee of the new Board;

Provided that such person shall, within a period of twelve months from the commencement day, exercise his or her option either to—

(i) enter into a written contract of service with the new Board, whereupon his or her service with the Government shall be deemed to have been terminated without right to severance pay but without prejudice to all other remuneration and benefits payable upon such termination; or

(ii) be re-deployed by the Government.

(4) The members of the former Board and the Chief Radiation Protection Officer shall continue in office as members and Chief Executive Officer respectively until when new appointments are made in accordance with the Act.
(5) The expression “former Board” in section means the Board existing immediately prior to the enactment of this section and “new Board” means the Board existing after the enactment of this section.

s.5(1) Delete and substitute therefor the following subsection

(1) The Board shall consist of—

(a) a chairman appointed by the President;

(b) a person with knowledge and expertise in health appointed by the Cabinet Secretary;

(c) the Director General of the National Commission for Science, Technology and Innovation;

(d) not more than two persons appointed by the Cabinet Secretary and having special knowledge in safe handling of radiation sources, one of whom shall be from the Ministry of Health;

(e) Director of the National Intelligence Service or his representative;

(f) Principal Secretary of the National Treasury or his representative;

(g) the Attorney General or his representative; and

(h) the Chief Executive Officer who shall be ex-officio member.

s.7 Renumber the existing provision as subsection (1).

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

Delete the word “powers” and substitute therefor the word “function”.

Insert the following subsection immediately after subsection (1)—

(2) The Board shall have all powers necessary for the proper performance of its functions under
this Act and, but without prejudice to the
generality of the foregoing, the Board shall have
power to—

(a) control, supervise and administer the
assets of the Board in such manner as
best promotes the purpose for which the
Board is established;

(b) determine the provisions to be made for
capital and recurrent expenditure and for
the reserves of the Board;

(c) receive any grants, gifts, donations or
endowments and make legitimate
disbursements there from;

(d) open such banking accounts for its funds
as may be necessary;

(e) invest any funds of the Board not
immediately required for its purposes, in
securities, in which for the time being
trustees may by law invest trust funds, or
in any other securities or banks which
the Treasury may, from time to time,
approve for that purpose;

(f) enter into association with other bodies
or organizations within or outside Kenya
as may be desirable or appropriate in
furtherance of the purpose for which it is
established; and

(g) undertake any activity that the Cabinet
Secretary deems necessary for the
fulfilment of any of its functions.

New. Insert the following section immediately after
section 7—

8. The Board may employ—

(a) such officers and other
staff as are necessary for
the proper discharge of its
functions under this Act,
upon such terms and
conditions of service as it
may determine; and
The holder of a license is primarily responsible for the physical protection of nuclear material, radioactive material and related facilities under its control.

The Board shall issue guidelines to provide for protection from attempted or actual unauthorized access or illicit trafficking of nuclear and radioactive materials or sabotage of their associated facilities.

Insert the following new paragraphs immediately after paragraph (s)—

(sa) non-ionizing radiation exposure;
(sb) the provision of any radiation protection service; and
(sc) mining, production, refinement, conversion, enrichment, processing, reprocessing, possession, import, export, use, packaging, transport, management, storage, or disposal of a nuclear and radioactive material.
Delete the definition of the term “drug”.

Insert the following definitions in proper alphabetical sequence—

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

“drug” includes health products and medicinal substances;

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

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

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

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

(a) intended by the manufacturer to be used, alone or in combination, for humans or animals for—
(i) diagnosis, prevention, monitoring, treatment or alleviation of disease;

(ii) diagnosis, monitoring, treatment, alleviation of or compensation for an injury;

(iii) investigation, replacement, modification or support of the anatomy or of a physiological process;

(iv) supporting or sustaining life;

(v) control of conception;

(vi) disinfection of medical devices; or

(vii) providing information for medical or diagnostic purposes by means of in vitro examination of specimens derived from the human body; and

(b) which does not achieve its primary intended action in or on the human or animal body by pharmacological, immunological or metabolic means, but which may be assisted in its intended function by such means.

Delete and substitute therefor the following new section—

3. (1) There is established a Board which shall consist of at least nine members as follows—

(a) a Chairperson who shall be appointed by the President;

(b) the Director of pharmaceutical services;

(c) the Permanent Secretary in the ministry for the time being responsible for finance or his representative
(d) the Attorney General or his or her representative

(e) the Registrar, who shall be an ex officio member;

(f) three other persons, not being public officers, appointed by the Cabinet Secretary by virtue of their knowledge or expertise in at least one of the following—

(i) community pharmacy,

(ii) hospital pharmacy; or

(iii) pharmacy training institutions;

(g) one pharmaceutical technologist appointed by the Cabinet Secretary from a panel of names submitted by the recognized organization.

(2) The persons appointed under subsection (1) (f) shall be appointed by the Cabinet Secretary from among members nominated by their various recognized organizations, each of which shall nominate three candidates 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) (f) unless such person is the holder of a degree in the relevant field from a university recognized in Kenya and has at least six years managerial experience.

New. Insert the following new sections immediately after section 3—

Powers of the Board.

3A. The Board may—

(a) formulate guidelines for regulating the manufacture, import and export, distribution, sale and use of medical products;

(b) grant or withdraw authorization for conducting clinical trials of medical products;

(c) grant or withdraw marketing authorization for medical products subject to appropriate conditions and revise such conditions for marketing authorization as necessary;

(d) recall medical products from the market;

(e) grant or withdraw licenses to manufacturers, wholesalers, retailers, importers, exporters and distributors;

(f) investigate conduct related to the manufacture, import, export, storage, distribution, sale and use of medical products;
(g) levy, collect and utilize fees for services rendered;

(h) prescribe the standards appropriate for new medical products; new uses, dosages, and formulations of existing medical products; and such other categories as may be appropriate

(i) Constitute technical and expert advisory committees

(j) institute administrative, civil and/or criminal proceedings;

(k) exercise such other powers as necessary for the performance of its functions.

3B. (1) The Board shall be responsible for the regulation of health products, technologies and the profession of pharmacy.

(2) The Board shall perform the following functions in relation to regulation of health products and technologies—

(a) advise the government and government agencies in all matters relating to the safety, packaging and distribution of medicines;

(b) ensure that all medicinal products manufactured in, imported into or exported from the
country conform to prescribed standards of quality, safety, and efficacy;

(c) ensure that the personnel, premises and practices employed in the manufacture, storage, marketing, distribution and sale of medicinal substances comply with the defined codes of practice and other prescribed requirements;

(d) enforce the prescribed standards of quality, safety, and efficacy of all medicinal substances manufactured, imported into or exported out of the country;

(e) grant or revocation of licenses for the manufacture, importation, exportation, distribution and sale of medicinal substances;

(f) maintain a register of all authorized medicinal substances

(g) publish, at least once in every three months, lists of authorized or registered medicinal substances and of products with marketing authorizations;
(h) regulate licit use of narcotic, psychotropic substances and precursor chemical substances in accordance with either the Single Convention on Narcotic Drugs of 1961, the Convention on Psychotropic Substances 1971, and the UN Convention against Illicit Traffic in Drug and Psychotropic Substances, 1988;

(i) consider applications for approval and alterations of dossier intended for use in marketing authorization of medicinal substances;

(j) inspect and license all manufacturing premises, importing and exporting agents, wholesalers, distributors, pharmacies (including those in hospitals and clinics) and other retail outlets;

(k) prescribe a system for sampling, analysis and other testing procedures of finished medicinal products released into the market to ensure compliance with the labeled specifications;
(l) conduct post-marketing surveillance of safety and quality of medical products

(m) monitor the market for the presence of illegal or counterfeit medicinal substances;

(n) regulate the promotion, advertising and marketing of medicinal substances in accordance with approved product information;

(o) approve the use of any unregistered medicinal substance for purposes of clinical trials and compassionate use;

(p) approve and regulate clinical trials on medicinal substances;

(q) disseminate information on medical products to health professionals and to the public in order to promote their rational use;

(r) collaborate with other national, regional and international institutions on medicinal substances regulation;

(s) advise the Cabinet Secretary on matters relating to control,
authorization and registration of medicinal substances; and

(t) any other function relating to regulation of medicinal substances.

(3) The Board shall perform the following functions in relation to regulation of the profession of pharmacy—

(a) promote the practice of pharmacy that complies with universally accepted norms and values;

(b) prescribe the minimum requirements and consider and approve the qualifications of persons wishing to be registered as pharmacists under this Act;

(c) prescribe the minimum requirements and consider and approve the qualifications of persons wishing to be enrolled as pharmaceutical technologists under this Act;

(d) maintain a register of all persons registered or enrolled under this Act;

(e) prescribe and conduct examinations for purposes of
recognition, registration or enrolment under this Act;

(f) to set level of practice for the different cadres practicing pharmacy

(g) approve institutions to be established or accredited under the Universities Act, 2012 for the training of pharmacy practitioners;

(h) license the private practice of pharmacists and pharmaceutical technologists under this Act;

(i) approve and license the premises for the practice by pharmacists and pharmaceutical technologists under this Act;

(j) regulate the professional conduct of pharmacists and pharmaceutical technologists and take such disciplinary measures as may be appropriate to maintain proper professional standards and ethics;

(k) establish, approve and accredit continuing professional educational programs
for pharmacists and pharmaceutical technologists;

(l) establish and maintain a professional code of conduct for pharmacists and pharmaceutical technologists; and

(m) perform any other function relating to regulation of the profession of pharmacy.

s.4(5) Delete the word “registrar” and substituting therefor the words “corporation secretary”.

s.5 Delete the expression “Chief Pharmacist” appearing in subsection (1) and substitute therefor the expression “Chief Executive Officer”.

Insert the following subsections after subsection (2)—

(3) The Registrar shall be responsible to the Pharmacy and Poisons Board for the day-to-day management of its affairs.

(4) The Board shall through a transparent competitive recruitment process appoint the Registrar, who—

(a) is a Kenyan citizen;

(b) holds at least a pharmacy degree and is registered to practice pharmacy in Kenya;

(c) belongs to the professional body of registered pharmacists;

(d) has at least ten years of pharmacy practice experience;

(e) has served in a senior management position for a period of at least ten years; and
(f) meets the requirements of Chapter Six of the Constitution.

(5) The Registrar shall hold office for a term of four years, but is eligible for reappointment subject to good performance.

s.6(1) Insert the words "and pharmacy specialists" immediately after the word "pharmacists".

s.20 Insert the following subsection immediately after subsection (1A)—

(1B) No person shall operate the business of a pharmacist or pharmaceutical technologist without the presence of a registered pharmacist or enrolled pharmaceutical technologist in the premises where such business is being carried out.

(2) Delete the words "twenty thousand shillings" and substitute therefor the words "one million shillings".

s.23 Insert the following subsection immediately after subsection (1)—

(1A) No person shall carry on the business of a pharmaceutical technologist except in premises registered in accordance with this section.

Delete the words "thirty thousand shillings" appearing in subsection (6) and substitute therefor the words "one million shillings".

New. Insert the following section immediately after section 23—

23A. (1) Any premises having been deleted from the register of premises by the Board or any premises which in the Board’s opinion have become unsuitable for the carrying on of the business of a pharmacist or pharmaceutical technologist shall be closed.
(2) The Board shall give the person in charge of the premises at least fourteen days' notice of the intended closure under subsection (1) and the reasons thereof in writing.

(3) If at the expiry of the period under subsection (2), the Board is not satisfied that the improvements required have been made, an authorized officer shall seize all the stock held and order closure of the premises.

Inserting the following new sections after subsection 25—

25A. (1) A person shall not import, export, manufacture or offer for sale any medicinal substance containing any poison approved under section 25(1) unless a marketing authorization has been issued by the Board in accordance with this Act and prescribed regulations.

(2) The Board shall ensure that any person granted a marketing authorization under subsection (1) complies with prescribed current good manufacturing practice requirements.

(3) The Board shall, according to prescribed rules, ensure the availability of investigational medicinal substances to patients who are not participants in clinical trials but may benefit from
these substances for their conditions that do not have known treatment.

Clinical trials.

25B. (1) A person shall not commence any clinical trial unless he has been granted approval by the Board.

(2) Any person who intends to commence a clinical trial shall make an application to the Board in the prescribed form and the application shall be accompanied by the study protocol in the prescribed format and the prescribed fee.

(3) The study protocol submitted under subsection (2) shall include a post-trial access program to ensure access of investigational medicinal substances by participants in a trial before grant of marketing authorization by the Board.

(4) The Board shall prescribe guidelines for evaluation of applications made under subsection (2) to be implemented for accelerated evaluations during emergency situations, epidemics and outbreaks.

s.27 Insert the following subsection after subsection (6)—

(7) It shall be an offence to deal as a wholesale dealer in poisons without a licence granted by the Board under subsection (1)

s.35A(5) Delete the words “The Director of the National Drug Quality Control Laboratory” and substitute therefor the words “The Registrar”. 
Insert the following subsections immediately after subsection (5)—

(6) A person who manufactures for sale any counterfeit or unregistered health product commits an offence and is liable to affine not exceeding three million shillings or to imprisonment for a term not exceeding three years or both.

(7) A person who manufactures for sale any health products without a license to manufacture medicinal substances commits an offence and is liable to affine not exceeding ten million shillings or to imprisonment for a term not exceeding five years or to both.

s.35D
Insert the following new subsection immediately after subsection (1)—

(2) There shall be established a Scientific advisory committee appointed by the Board whose functions shall be determined by the Board.

s.35E
Delete.

s.35F
Delete.

s.35G
Delete.

s.35H
Delete.

s.35I
Delete.

s.35J
Delete.

s.35K
Delete.

s.44(1)
Insert the following paragraphs after paragraph (n)—

(o) the practice of pharmacy; and

(p) generally for the better carrying out of the objects and purposes of this Act.

s.46
Insert the following subsection immediately after subsection (4)—

(5) The Board may retain or confiscate a medicinal substance that it has reasons to believe is a counterfeit or is illegally imported
and the substance, if found to be counterfeit or illegally imported shall be disposed at the expense of the owner or importer of such substance.

New.

Insert the following new section immediately after section 50—

Offences.

50A. (1) A person who engages in the manufacturer, importation, exportation, compounding, storage, promotion or distribution of medicinal substances—

(a) that is unfit for use in humans or in animals;

(b) that is adulterated;

(c) that has upon it any natural or added deleterious substances which renders it injurious to human or animal health;

(d) that has been manufactured, prepared, preserved, packaged or stored for sale under insanitary and or unfavourable conditions;

(e) that has been labeled, packaged or promoted in a manner that is false, misleading, deceptive or likely to create an erroneous impression regarding its source, character, value,
quality,
composition,
potency, merit or
safety; or

(f) or any counterfeit
starting materials;

commits an offence under
this Act.

Delete the definition of “Board” and substitute
therefor with the following new definition—

“Council” means the Kenya Medical and
Dental Council constituted under section 3;

Delete the definition of “register” and
substitute therefor with the following new
definition—

“register” means the register of medical
practitioners, dental practitioners, and health
institutions which the Council is required by
section 5 to keep;

Insert the following new definitions in proper
alphabetical sequence -

“Cabinet Secretary” means the Cabinet
Secretary responsible for health;

“general practice” means the practice of
general medicine or dentistry other than
specialist practice as defined in the Act;

“health institution” means a facility that is
operated or designed to provide in-patient or
out-patient treatment, diagnostic or therapeutic
interventions, nursing, rehabilitative, palliative,
convalescent, preventative or other health
service;

“intern” means a person holding a medical or
dental degree or its equivalent recognized by
the Council or a person who has passed the
internship qualifying examination, who is
undergoing a prescribed period of internship in
a recognized institution;
“internship” means a prescribed period of employment during which a medical or dental graduate works under supervision to fulfil registration requirements;

“licence” means an annual practicing licence issued under section 12 of this Act;

“professional misconduct” means a serious digression from established or recognized standards or rules of the profession, that includes a breach of such codes of ethics or conduct as may be prescribed for the profession from time to time;

“specialist” means a medical practitioner or dentist who has completed an approved post graduate training programme in a particular field of medicine or dentistry, and who has thereafter gained sufficient experience and demonstrated to the Council’s satisfaction adequate knowledge and skill, in his chosen field;

“specialist practice” means the practice of medicine or dentistry in a specialized field;

Delete and substitute therefor with the following new section—

3. (1) There is established a Council to be known as the Kenya Medical and Dental Council.

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

(a) suing and being sued;

(b) taking, purchasing, or otherwise acquiring, holding, charging and disposing of movable and immovable property; and
(c) doing or performing all such other things or acts necessary for the proper performance of its functions under this Act as may lawfully be done or performed by a body corporate.

New. Insert the following new section immediately after section 3—

Composition of the Council.

3A. (1) The Council shall consist of—

(a) a chairperson, who shall be appointed by the President, and who shall be a specialist medical or dental practitioner of good standing with at least fifteen years of practice, five of which shall be in a managerial position;

(b) the Director General or a designated representative

(c) three 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

(d) four 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;

(iii) one person who shall be a representative of the public; and

(iv) one person with financial expertise

(e) the Corporation Secretary who shall be an ex officio member of the Council; and

(f) 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 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.

Delete and substitute therefor with the following new section —

Functions of the Council.

4. (1) The functions of the Council shall be to—

(a) establish and maintain uniform norms and standards on the learning of medicine and dentistry in Kenya;
(b) approve and register medical and dental schools for training of medical and dental practitioners;

(c) prescribe the minimum educational entry requirements for persons wishing to be trained as medical and dental practitioners;

(d) maintain a record of medical and dental students;

(e) conduct internship qualifying examinations, preregistration examinations, and peer reviews as deemed appropriate by the Council;

(f) inspect and accredit new and existing institutions for medical and dental internship training in Kenya;

(g) license eligible medical and dental interns;

(h) determine and set a framework for professional practice of medical and dental practitioners;

(i) register eligible medical and dental practitioners;

(j) regulate the conduct of registered medical and dental practitioners and take such disciplinary measures for any form of professional misconduct;
(k) register and license health institutions;
(l) carry out inspection of health institutions;
(m) regulate health institutions;
(n) accredit continuous professional development providers;
(o) issue certificate of status to medical and dental practitioners; and
(p) do all such other things necessary for the attainment of all or any part of its functions.

Insert the following new sections immediately after section 4 –

4A. (1) The Council may constitute the following committees—

(a) an training, assessment, registration and human resources committee;

(b) a disciplinary and ethics committee whose mandate includes;

(i) conducting preliminary inquiries;

(ii) regulating professional conduct for counties; and

(iii) ensuring fitness to practice;

(c) an inspections, licensing, finance and general purposes committee; and
(d) an audit and risk committee.

(2) The Council may from time to time appoint such other ad hoc committees as it may deem necessary for the effective carrying out of its functions under this Act.

(3) Any committee appointed by the Council under subsection (2) or (3) shall consists of such persons as the Council deems necessary.

(4) The Corporation Secretary shall be the secretary of all committees appointed under this Act.

4B. The Council shall have all powers necessary for the proper performance of its functions under this Act and in particular, but without prejudice to the generality of the foregoing, shall have power to—

(a) control, supervise and administer the assets of the Council in such manner and for such purpose as best promotes the purpose for which the Council is established;

(b) determine the provisions to be made for capital and recurrent expenditure and for the reserves of the Council;

(c) receive any grants, gifts, donations or endowments and make
legitimate disbursements therefrom;

(d) enter into an association with other bodies or organizations within or outside Kenya as the Council may consider desirable or appropriate and in furtherance of the purpose for which the Council is established;

(e) open a bank account or banking accounts for the funds of the Council; and

(f) invest any funds of the Council not immediately required for its purposes.

Chief Executive Officer.

4C. (1) There shall be a Chief Executive Officer of the Council who shall be appointed by the Council through a competitive process and whose terms and condition of service shall be determined by the Council in an instrument of his appointment or otherwise in writing from time to time.

(2) The Chief Executive Officer shall be responsible for the daily management of the staff and affairs of the Council.

(3) The Chief Executive Officer shall serve for a term of four years and shall be eligible, subject to satisfactory performance, to reappointment
for a single further term of four years.

4D. 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.

s.5(1). Delete the words “of Medical Practitioners and Dentists”.

(2) Delete the words “Director of Medical Services” and substitute therefor the words “Chief Executive Officer”.

(3) Delete and substitute therefor the following subsection —

(3) The Registrar shall annually maintain—

(a) a register for interns;

(b) a register of medical and dental practitioners;

(c) a register of community oral health officers;

(d) a register of general practitioners;

(e) a register of specialist practitioners;

(f) a register of foreign medical and dental practitioners;

(g) a register of approved medical and dental schools;

(h) a register of approved internship training centres;

(i) a register of health institutions; and

(j) such other registers as may from time to time be required by the Council.

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

6. (1) A person who—

(a) is a citizen of Kenya;
(b) is a holder of a degree or other qualification obtained from a University in Kenya or the East African Community which is recognized by the Council as making him eligible for registration;

(c) presents proof of completion of internship; and

(d) satisfies the Council that he is a person of good moral standing,

may apply to the Council for full registration as a medical or dental practitioner under this Act.

(2) A person who—

(a) is a citizen of Kenya;

(b) is a holder of a degree or other qualification obtained from a University outside Kenya or outside the East African Community which is recognized by the Council as making him eligible for registration;

(c) has passed the internship qualifying examinations;

(d) presents proof of completion of internship; and

(e) satisfies the Council that he is a person of good moral standing,
may apply to the Council for full registration as a medical or dental practitioner under this Act.

(3) A person who—

(a) is a citizen of Kenya;

(b) is a holder of a degree or other qualification obtained from a University outside Kenya or outside the East African Community which is recognized by the Council as making him eligible for registration;

(c) presents proof of completion of internship in the country in which he trained;

(d) has passed pre-registration examination;

(e) satisfies the Council that he is a person of good moral standing,

may apply to the Council for full registration as a medical or dental practitioner under this Act.

(4) A person who—

(a) is a citizen of the East African Community;

(b) is a holder of a degree or other qualification recognized by the Council as making him eligible for registration;
c) presents proof of registration in their country of origin; and

d) satisfies the Council that he is a person of good moral standing,

may apply to the Council for reciprocal registration as a medical or dental practitioner under this Act.

(5) A person who—

(a) is not citizen of Kenya or of a partner state of the East African Community;

(b) is a holder of a degree or other qualification recognized by the Council as making him eligible for registration;

(c) presents proof of registration from the country of origin or any other jurisdiction;

(d) satisfies the Council that, he has acquired sufficient knowledge of, and experience in, the practice of medicine or dentistry as the case may be; and

(e) satisfies the Council that he is a person of good moral standing,

may apply to the Council for temporary registration as a foreign medical or dental practitioner under this Act.

(6) An application made under subsections (1), (2), (3), (4) or
(5) shall be in the prescribed form and shall be accompanied by the prescribed fee.

(7) The Council shall consider every application made under this section and shall register the applicant if satisfied that the applicant is—

(a) duly qualified in terms of this section; and

(b) a fit and proper person to be so registered.

s.7
Delete the words “the Registrar” and substitute therefor the words “the Council”.

Insert the words “of registration” immediately after the word “certificate”.

s.9(1).
Delete.

Delete the words “the Registrar” and substitute therefor the words “the Council”.

(2).
Insert the words “and health institution” immediately after the words “dental practitioners”.

s.11
Delete and substitute therefor with the following new section—

11. A person registered under this Act who has obtained a higher degree or qualification than the qualification in respect of which he has been registered may apply to the Council to have that higher degree or qualification inserted in the register in addition to the qualification previously registered, on the payment of a prescribed fee.

New.
Insert the following new section immediately after section 11A—

11A. The Council may recognize a medical practitioner or dentist as a specialist or subspecialist in any of the fields under the Act or the rules made thereunder.
s.12 Delete and substitute therefor the following section—

Specialist licences.

12. (1) The Council shall issue in accordance with this section and rules made under this Act, general, specialist and any other practising licences as the Council shall determine from time to time authorizing medical practitioners and dentists named therein to practice medicine or dentistry.

(2) An application for a practising licence under subsection (1) shall be made to the Council in the prescribed form and accompanied by the prescribed fee.

(3) All medical practitioners and dentists shall be required to satisfy the Council’s requirement for continuing professional development before the renewal of annual practising licences.

(4) A practising licence shall bear the date of day on which it is issued and shall have effect from that day:

Provided that a practising licence issued during the first month of any practicing year shall have effect, for all purposes, from the beginning of that month.

(5) The practising year for a practising licence shall be from the first of January to the thirty-first of December:

Provided that the Council, in consultation with the Cabinet
Secretary, may, by order in the *Gazette*, alter the practicing year and the order may make such transitional provisions regarding incidental matters as may be expedient.

(6) A practicing license shall expire at the end of the end of the practicing year in which it was issued:

Provided that, where the name of a medical or dental practitioner is removed or struck off the register, the practicing license, if any, shall expire forthwith.

s.13 Delete and substitute therefor the following section—

**13. (1)** A medical and dental graduate who intends to undertake internship training shall apply to the Council in the prescribed form and upon payment of the prescribed fee for an internship licence.

(2) If the Council is satisfied that the graduate meets the set requirements, it shall issue the graduate an internship licence with or without conditions on the licence.

(3) The Council shall grant temporary licences to eligible foreign medical and dental students to perform specific work or works in specific institutions in Kenya.

(4) An internship licence issued under subsection (2) shall be for a period not exceeding twelve months within a practicing year.
(5) A temporary licence issued under subsection (3) shall be for a period not exceeding twelve months within a practicing year and may be renewed.

s.14

Delete and substitute therefor the following section—

14. (1) A medical practitioner or dentist, issued with a practising licence may apply for the renewal of the licence in the prescribed form at least thirty days before the expiry thereof.

(2) A medical practitioner or dentist, who fails to apply for renewal of their practising licence within the period specified under subsection (1), shall, when applying for renewal, be required to pay such late application fee as shall be prescribed by the Council.

(3) The Council may refuse to renew, or suspend, withdraw or cancel any practising licence, if satisfied that the medical practitioner or dentist is guilty of professional misconduct or is in breach of any provisions of this Act or any regulations made thereunder, within a period of twelve months immediately preceding the date of the application for renewal.

(4) A person who is aggrieved by the decision of the Council in the exercise of
its powers under subsection (3) may appeal to the High Court.

s.15 Delete and substitute therefor the following section—

Registration of health institutions.

15. (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 practicing 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 practicing 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.

New. Insert the following new section immediately after section 15—

**15A.** Every practitioner shall in each year take a professional indemnity cover and every health Institution shall in each year insure the health Institution against professional liability of its staff.
Delete and substitute therefor the following section—

Publishing of licences.

16. The issuance and the cancellation, revocation or withdrawal of a license shall be published in such a manner as may be determined by the Council.

Delete.

Delete and substitute therefor the following section—

Disciplinary proceedings.

20. (1) Any person who, is dissatisfied with any professional service offered, or alleges a breach of standards by a registered or licensed person under this Act, may lodge a complaint in the prescribed manner to the Council.

(2) The Council may, or through a committee appointed for that purpose, inquire into any complaint of professional misconduct, malpractice or any breach of standards.

(3) Upon an inquiry held by the Council to determine the complaint made under subsection (2), the person whose conduct is being inquired into shall be afforded an opportunity of being heard, either in person or through a representative.

(4) For purposes of proceedings at any inquiry held under this section, the Council may administer oaths, enforce the attendance of witnesses and production of books and documents.
(5) The Council shall regulate its own procedure in disciplinary proceedings.

(6) Where after an inquiry, the Council determines that a person is guilty, the Council may—

(a) issue a caution or reprimand in writing;

(b) direct a medical practitioner or dentists to undergo remedial training for a period not exceeding twelve months;

(c) direct the medical practitioner or dentist be placed on probation for a period not exceeding six months;

(d) suspend, withdraw or cancel the practising licence of a medical practitioner or dentist for a period not exceeding twelve months;

(e) suspend, withdraw or cancel the licence of a health institution or a section of the health institution for a period not exceeding twelve months;

(f) permanently remove the name of a medical practitioner or dentist from the all the registers under section 5(3); or
(g) in addition to the penalties stipulated in paragraphs (a), (b), (c), (d), (e) or (f), impose a fine which the Council deems appropriate in the circumstance.

(7) A person or health institution, whose licence has been withdrawn or cancelled under subsection (6), shall forthwith surrender the license to the Council.

(8) A person or health institution whose name has been removed from the register under subsection (6)(f) shall forthwith surrender the registration certificate to the Council.

(9) A person aggrieved by a decision of the Council made under subsection (6) may, within thirty days from the date of the decision of the Council, appeal to the High Court.

(10) Notwithstanding the provisions of section 3A (5), the Council shall not remove the name of a person from the register under subsection (6) unless at least seven members of the Council are present in the inquiry.

Delete and substitute therefor the following section—

Penalty for unregistered and unlicensed person practising.

22. (1) A person who isn’t registered or licensed, including a person aiding or assisting therein, under this Act, and makes or produces or causes to
be made or produced any false or fraudulent presentation or declaration either orally or in writing, shall be commits an offence and shall be liable, on conviction, to a fine not exceeding five million shillings or to imprisonment for a term not exceeding five years or to both.

(2) Any person who, falsely takes or uses any name, title or addition implying a qualification to practice medicine or dentistry or who not being registered or licensed under this Act, practices or professes to practice or publishes his name as practicing medicine or dentistry commits an offence and shall be liable on conviction to a fine not exceeding five million shillings or to imprisonment for a term not exceeding five years or to both.

(3) Any person who uses the title “doctor” unless he is registered or licensed under this Act as a medical practitioner or dentist or has acquired doctoral qualifications or has obtained such qualifications which entitles him to use that title, commits an offence and shall be liable on conviction to a fine not exceeding five million or to imprisonment for a term not exceeding five years or to both.

(4) Any person who, while in charge of a health institution employs or engages the services of another person as a medical practitioner or dentist
who is not registered and licenced under this Act, commits and offence and shall be liable on conviction to a fine not exceeding ten million shillings or imprisonment for a term not exceeding five years or to both.

(5) A person who uses premises as a health institution commits an offence and shall be liable on conviction to a fine not exceeding ten million shillings or imprisonment for a term not exceeding five years or to both.

s.23 Insert the following subsection immediately after subsection (d)—

(e) provide for indemnity for clients against loss or damage arising from claims in respect of any liability incurred by a practitioner or a health institution or the employee of a practitioner or health institution.

s.24 Delete.

New. Insert the following new section immediately after section 25—

Savings and transition.

26. (1) All property, assets, rights, liabilities, obligations, agreements and other arrangements existing at the commencement of this Act and vested in, acquired, incurred or entered into by or on behalf of the Medical Practitioners and Dentists Board, shall be deemed to have vested in or to have been acquired, incurred or entered into by or on behalf of the Council to the same extent as they were enforceable by or
against Kenya Medical and Dental Council.

(2) A person, who is an employee of the Medical Practitioners and Dentists Board, shall be deemed to be an employee of the Kenya Medical and Dental Council on the terms and conditions existing, until the expiry of the contract.

(3) Any legal proceedings pending in any court or tribunal by or against the Medical Practitioners and Dentists Board, in respect of any matter shall continue by or against the Council.

(4) Members of the Medical Practitioners and Dentists Board, who were appointed, nominated or elected as Board members under section 4, shall continue to hold and act as Council members, until the end of their term.

Delete the word “Minister” in the definition of the words “approved institution” and substitute therefor the expression “Cabinet Secretary”.

Delete the word “Minister” wherever it appears in the definition of the words “local supervising authority” and substitute therefor the expression “Cabinet Secretary”.

Insert the words “or midwifery” in the definition of the word “licence”.

Insert the following new definitions in proper alphabetical sequence—

“Cabinet Secretary” means the person for the time being responsible for matters relating to health;
“enrolled community health nurse” means a person who has undergone training in an approved nursing programme in an approved institution and has been enrolled and licensed by the Council;

“member” means a member of the Council;

“midwife” means a person who has successfully completed midwifery education programme based on the essential competences for basic midwifery practice according to global standards of midwifery education and is recognized and licensed in the country of origin;

“nurse” means a person who is authorized by licensure to practice as an enrolled or registered nurse or midwife;

“post basic” means acquiring a second qualification after initial entry into the profession through a basic nursing course;

“private practice” means the engagement as a registered or enrolled nurse or midwife in the provision of nursing care in the private sector in an independent capacity;

“specialist” means a person registered under this Act as a nurse practitioner, an advanced practice nurse, nurse or registered midwife who has acquired the expert knowledge base, complex decision-making skills and clinical competencies for expanded practice and who has a master’s degree or above from a recognized university in any of the following disciplines—

(a) midwifery;
(b) medical surgical nursing;
(c) paediatrics nursing;
(d) oncology and palliative care nursing;
(e) forensic nursing;
(f) community health nursing;
(g) nursing education;
(h) nursing management and leadership;
(i) mental health nursing
(j) nursing informatics;
(k) critical care nursing;
(l) gerontology nursing; and
(m) such other specialization that the Council may from time to time deem necessary; and

"year" means financial year;

s.4.

Delete and substitute therefor the following new section—

Membership of the Council.

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

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

(i) be a holder of a Bachelor's degree in nursing from a university recognized in Kenya; and

(ii) have at least six years' experience in Leadership and Management;

(b) the Director General of Health or a representative appointed in writing by the Director General of Health;

(c) the Director of Nursing Services or a representative appointed in writing by
the Director of Nursing Services;

(d) a person nominated by the professional associations of Kenya representing nurses and midwives;

(e) one representative of nurses and midwives involved in clinical practice;

(f) one representative of accredited mid-level institutions involved in the training of nurses and midwives in Kenya;

(g) one representative of accredited universities involved in the training of nurses and midwives in Kenya; and

(h) two persons appointed by the Cabinet Secretary to represent the public, either of whom, shall have knowledge and experience on matters relating to finance, law or human resource management.

(2) Appointments under subsection (1) shall be in such a manner as shall be notified in the *Kenya gazette*.

(3) A person appointed under subsection (1) (b) or (c) shall be *ex officio* members of the Council.
(4) A member of the Council shall be a Kenya citizen of good professional standing and meet the requirements of Chapter Six of the Constitution.

(5) A member of the Council, except the ex officio members, shall hold office for a term of three years and may be eligible for reappointment for a single further term.

New.

Insert the following section immediately after section 4—

Corporation Secretary.

4A. There shall be a Corporation Secretary to the Board who shall be appointed by the Board, on such and conditions of service as the Board may determine and shall be the Secretary to the Board.

s.5(1).

Delete the expression “section 25(1)” in paragraph (b) and substitute therefor with the expression “section 18B”.

Insert the following new paragraph immediately after paragraph (b) —

(c) he has contravened the provisions of the Constitution or convicted of a criminal offence punishable by a fine or imprisonment for more than six months.

(3)

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

s.6.

Delete.

s.7(1).

Delete the word “chairman” and substitute therefor the word “chairperson”.

(2)

Delete the word “chairman” and substitute therefor the word “chairperson”.

Insert the following new subsection immediately after subsection (2)—
(3) Council meetings shall be presided over by the chairperson or in the chairperson's absence any other member elected by the Council at the meeting for that purpose.

s.8(1).

Delete and substitute therefor the following new subsection -

(1) The quorum of the Council meetings shall be five members, but no meeting shall be held or continued, notwithstanding that there is quorum, unless the Registrar or a person deputizing the Registrar is present.

s.9(1)

Delete the word "chairman" in subsection (2) and substitute therefor the word "chairperson".

Delete the word "Minister" wherever it appears and substitute therefor the expression "Cabinet Secretary".

Delete the words "nursing commodities" in paragraph (i).

Delete paragraph (k) and substitute therefor the following new paragraph –

(k) to advise the Cabinet Secretary on any matter falling within the scope of this Act.

s.10(1).

Delete subsection (1) and substitute therefor the following subsection—

(1) The Council may, for the effective discharge of its functions under this Act, establish the following committees—

(a) registration, education and examination;
(b) discipline, standards and ethics;
(c) finance, strategy and development; and
(d) risk and audit.

Delete subsection (2) and substitute therefor the following subsection -

(2) The Council may from time to time appoint such other ad hoc committees for specific tasks as it may deem necessary for the more effective carrying out of its functions under this Act.
(6) Delete the word "chairman" wherever it appears and substitute therefor the word "chairperson".

(7) Delete.

s.11(1). Delete subsection (1) and substitute therefor the following subsection—

(1) The Council shall, with the approval of the Cabinet Secretary, competitively appoint a Registrar who shall—

(a) be a registered nurse;

(b) be the Chief Executive Officer to the Council;

(c) perform such duties as may be prescribed by this Act or directed by the Council; and

(d) be an ex officio member of the Council.

Delete subsection (2) and substitute therefor the following subsection—

(2) The Council may appoint such other officers as the work of the Council may require, and those officers shall perform such duties as the Council may direct.

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

(4) A fee, to be known as a retention fee, shall be prescribed for payment annually by the Council as the Council may deem appropriate.

Delete and substitute therefor the following subsection—

(5) The appointment of the Registrar under subsection (1) may be renewed subject to satisfactory performance.

s.12. Delete and substitute therefor the following new section—

12. (1) The Registrar shall compile and keep a register of nurses and midwives in the prescribed form.
(2) Every person eligible to be registered as a nurse or midwife may apply in the prescribed form to the Registrar for registration and every such application shall be accompanied by the prescribed fee.

(3) Every person registered under this Act who has obtained a higher degree or qualification other than the qualification in respect of which he has been registered, shall be entitled to have that higher degree or additional qualification inserted in the register in substitution for or in addition to the qualification previously registered, upon paying the prescribed fee.

s.14(1). Delete the word “Minister” and substitute therefor the expression “Cabinet Secretary”.

s.16(1). Delete the word “Minister” wherever it appears and substitute therefor the expression “Cabinet Secretary”.

s.17. Delete and substitute therefor the following new section—

Private practice. 17. (1) A person may engage in private practice as a nurse or a midwife if that person shall be-

(a) either a citizen of Kenya or a foreign country;

(b) registered and licensed to practice in Kenya;

(c) holder of a valid practicing license issued under this Act;
(d) of professional good standing, as may be prescribed by the Council;

(e) has paid the fee as prescribed by the Council;

(f) meets such other requirements as may be prescribed by the Council; and

(g) a holder of such other nurse or midwifery qualification as may be prescribed.

(2) A person is not qualified to operate a clinic in community nursing or midwifery services as a private practitioner unless such person has at least 3 years post qualification experience in community nursing or midwifery and is in active practice in Kenya.

(3) Despite the provisions of sub sections (1) and (2), a person is not qualified to operate a nursing home, maternity home or a nursing and maternity home as a private practitioner unless such person has been in active practice for at least 5 years in Kenya.

(4) A license to engage in private practice—

(a) may be for such period and for such purpose as the Council may determine; and
(b) is renewable for such period, not exceeding one year, as the Council may from time to time, determine.

(5) Details of a renewal license issued under paragraph (4) (a) may be entered in the appropriate register.

(6) If a license is due for renewal and is not renewed within thirty days from the date of expiry, the licensee shall not engage in private practice until a renewal license is issued.

(7) An application to engage in private practice or renewal shall be made to the Council in the prescribed form, accompanied with such fee as the Council may from time to time, determine.

(8) A person who has made an application to engage in private practice shall be issued with such license by the Council upon satisfying such requirements for issuance with a licence under this Act.

(9) A license to engage in private practice is valid for a period of twelve months from the date of issue.

(10) A person who contravenes the provision of this section commits an offence and is liable upon conviction, to a fine not exceeding five hundred thousand shillings or to
imprisonment for a term not exceeding one year, or both.

s.19(2). Delete the word “Minister” and substitute therefor the expression “Cabinet Secretary”.

s.26. Delete the word “Minister” and substitute therefor the expression “Cabinet Secretary”.

s.27. Delete the word “Minister” and substitute therefor the expression “Cabinet Secretary”.

New. Insert the following new sections immediately after section 27 -

Financial year.

27A. The financial year of the Council shall be the period of twelve months commencing on the first of July and ending on the thirtieth of June of the subsequent year.

Accounts and Audit.

27B. (1) The Council shall keep proper books and records of account of income, expenditure, assets and liabilities of the Council.

(2) Within a period of three months after the end of each financial year, the Council shall submit to the Auditor-General accounts of the Council in respect of that year together with a—

(a) statement of the income and expenditure of the Council during that year; and

(b) statement of the assets and liabilities of the Council on the last day of that financial year.

(3) The annual accounts of the Council shall be prepared, audited and reported upon, in
accordance with the provisions of Articles 226 and 229 of the Constitution and the law relating to public audit.

Schedule
paragraph 2
(2).

Delete the word "fourteen" and substitute therefor with the word "seven".

Delete the expression "Board of management" appearing in the definition of the word "statutes" and substitute therefor the expression "Board of Directors".

Delete the definitions of "Academic Board", "Board of Management", "Principal" and "Deputy Principal".

Insert the following new definitions in proper alphabetical sequence—

"Academic council" means the Academic Council of the college established under section 11;

"Board of Directors" means the Board of Directors of the College established under section 9;

"Cabinet Secretary" means the Cabinet Secretary for the time being in charge of matters related to health;

"Chief Executive Officer" means the Chief Executive Officer appointed under section 8; and

"Deputy Director" means a Deputy Director of the College appointed under section 8.

Delete and substitute therefor the following paragraph -

(b) such other institutions as the Cabinet Secretary may, from time to time in consultation with the Board of Directors, by notice in the Gazette, declare to be a campus of the College.
s.4(1) Delete and substitute therefor the following new subsection—

(1) The Common seal of the College shall be kept in the custody of the Corporation Secretary and shall not be used except by the order of the Board of Directors.

(2) Delete the expression “Board of Management” and substitute therefor the expression “Board of Directors” wherever it appears.

Delete the expression “Principal” and substitute therefor the expression “Chief Executive Officer”.

Delete the expression “Board of Management” and substitute therefor the expression “Board of Directors”.

s.5(1) Delete the expression “Academic Board” and substitute therefor the expression “academic council”.

Delete the expression “constituent training centres” appearing in paragraph (h) and substitute therefor the expression “a campus”.

(2) Delete the expression “Board of Management” and substitute therefor the expression “Board of Directors”.

s.7(a) Delete the expression “Principal” and substitute therefor the expression “Chief Executive Officer”.

(b) Delete the expression “Deputy Principal” and substitute therefor the expression “Deputy Director”.

(d) Delete the expression “Board of Management” and substitute therefor the expression “Board of Directors”.

(i) Delete.

(j) Delete the expression “Board of Management” and substitute therefor the expression “Board of Directors”.
The Health Laws (Amendment) Bill, 2018

s.8

Delete the marginal note and substitute therefor the following new marginal note—

The Chief Executive Officer and Deputy Directors.

Delete and substitute therefor the following new subsection -

(1) There shall be a Chief Executive Officer of the College who shall be appointed by the Board of Directors, who shall have the following minimum qualifications—

(a) hold a degree in the relevant field from a university recognized in Kenya;

(b) has at least ten years' knowledge and experience in the relevant field;

(c) meet the requirements of Chapter Six of the Constitution; and

(d) have served in a position of senior management for a period of at least five years.

(2) Delete the expression "Principal" and substitute therefor the expression "Chief Executive Officer".

Delete the expression "Board of Management" appearing in paragraph (c) and substitute therefor the expression "Board of Directors".

(3) The Board of Directors shall appoint Deputy Directors in the following areas to assist the Chief Executive Officer—

(a) academic;

(b) finance, planning and administration;

(c) research and innovation; and

(d) resource mobilization and consultancy.

(4) Delete and substitute therefor the following subsection—
(4) The Chief Executive Officer and Deputy Directors shall hold office upon such terms and for such period as may be provided by the statutes and upon the expiration of the period shall be eligible for re-appointment upon satisfactory performance of duties.

(5) The Board of Directors shall appoint one of the Deputy Directors appointed under subsection (3) to be the secretary to the Board of Directors and the Academic Board.

Delete the marginal note and substitute therefor the following new marginal note—

The Board of Directors.

(1) There shall be a Board of Directors which shall consist of—

(a) a chairperson appointed by the President;

(b) the Chief Executive Officer who shall be an ex-officio member

(c) the Principal Secretary in the Ministry for the time being responsible for Health or their designated representative;

(d) the Principal Secretary in the Ministry for the time being responsible for finance or their designated representative

(e) a representative from Ministry responsible for Health with knowledge and expertise in health appointed by Cabinet Secretary; and

(f) four independent members appointed by the Cabinet Secretary taking into consideration gender balance, regional balance and requisite technical expertise.
Insert the following new subsections immediately after subsection (1) -

(1A) The Chairperson shall preside over all meetings of the Board of Directors and in his absence the members present shall choose one of the members to act as the Chairperson.

(1B) A person appointed to act as Chairman shall have all the powers and privileges of the Chairman in respect of the meeting at which he presides.

(1C) The Board of Directors shall meet at least once every three months.

(1D) Each member of the Board of Directors shall have a deliberative vote and the Chairman for the time being at any meeting of the Board shall, in addition to the deliberative vote have a casting vote.

(1E) Two thirds of the members of the Board of Directors, including the Chairman, shall constitute a quorum at any meeting of the Board, and all acts, matters or things authorized or required to be done by the Board of Directors, may be decided at any meeting at which a quorum is present.

(1F) The powers of the Board of Directors shall not be affected by any vacancy in membership thereof.

(1G) The Chief Executive Officer shall be a member without voting rights.

(1H) The Board of Directors may constitute committees and others to perform the following functions—

(a) audit;
(b) governance;
(c) risk;
(d) compliance;
(e) finance;
(f) human resource;

(g) strategy; and

(h) technical matters.

Delete the expression “Board of management” and substitute therefor the expression “Board of Directors”.

(2) Insert the words “for one further term” immediately after the word “re-appointment”.

(3) Delete and substitute therefor the following paragraph—

(3) The office of a member of the Board of management shall become vacant—

(a) if, not being an ex officio member—

(i) he resigns his office by writing under his hand addressed to the Principal;

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

(iii) he is absent, without permission of the Board of management, from three consecutive meetings;

(b) if the Board of Management is satisfied that such member is, by reason of physical or mental infirmity, unable to exercise the functions of his office;

(c) upon death;

(d) upon adjudication of bankruptcy by a court of competent jurisdiction;

(e) upon conviction of an offence related to fraud; or

(f) upon the conviction for offence under this Act.

Delete the expression “Principal” and substitute therefor the expression “Chief Executive Officer”.

Delete the expression “Board of management” and substitute therefor the expression “Board of Directors”.

Delete and substitute therefor the following subsection—

(5) Notwithstanding the provisions of this section, the procedure and conduct of affairs of the Board of Directors shall be regulated by the statutes.

Insert the following new section immediately after section 9—

9A. The Board shall appoint a Corporation Secretary who shall be the secretary to the Board.

Delete the marginal note and substitute therefor the following marginal note—

Functions of the Board of Directors.

Delete the expression “Board of management” and substitute therefor the expression “Board of Directors”.

Delete and substitute therefor the following subsection—

(2) Notwithstanding subsection (1), the Board of Directors shall have power—

(a) to administer the property and funds of the College in a manner and for purposes which shall promote the best interests of the College; but the Board of Directors shall not charge or dispose of immovable property of the College except in accordance with the procedures laid down by the State Corporations Advisory Committee established, under the State Corporations Act;

(b) to receive, on behalf of the College or a campus, gifts, donations, grants or other moneys and to make
disbursements therefrom to the campuses or other bodies or persons;

(c) in consultation with the Cabinet Secretary, to determine the scales of fees payable by or in respect of students at the College and to prescribe the conditions under which fees may be remitted in whole or in part;

(d) to provide for the welfare of the staff and students of the College;

(e) to enter into association with universities, other colleges and other institutions of learning whether within Kenya or otherwise, as the Board of Directors may deem necessary and appropriate;

(f) to make, after consultation with the Academic Board, regulations governing the conduct and discipline of students of the College; and

(g) to make investments on behalf of the College.

Delete and substitute therefor the following section—

11. (1) There shall be an Academic Council of the College which shall consist of—

(a) the Chief Executive Officer, who shall be the chairman of the Academic Council;

(b) the Deputy Directors;

(c) the heads of the faculties of the College;

(d) the head of each campus;
(e) two members of the academic staff of the College, not being members of the Academic Council under any other provisions of this subsection, elected by the College Staff Association; and

(f) two student members elected by the student body of the College, except that the student members shall not be entitled to attend deliberations of the Academic Council on matters which are considered by the Chief Executive Officer to be confidential and which relate to examinations, the general discipline of students and other related matters.

(2) The Academic Council shall have the following powers—

(a) to satisfy itself regarding the content and academic standard of any course of study in respect of any diploma, certificate or other award of the College, and to report its findings to the Board of Directors;
(b) to propose regulations to be made by the Board of Directors regarding the standard of proficiency to be gained in each examination for a diploma, certificate or other award;

(c) to decide which persons have attained such standard of proficiency or are otherwise fit to be granted the diploma, certificate or other award;

(d) to initiate proposals relating to the conduct of the College generally, and to discuss any matter relating to the College, including the establishment of faculties or training programmes, and make representations thereon to the Board of Directors;

(e) to make regulations governing such other matters as are within its powers in accordance with the provisions of this Act or the statutes;

(f) selection and admission of students; and

(g) establish technical committees to enable
the Academic Council
to carry out the
necessary functions

(3) Notwithstanding any
other provision of this Act, the
Board of Directors shall not
initiate any action in respect
of any of the matters
mentioned in subsection (2)
(a), (b) or (c), except upon
receipt of a report or proposal
of the Academic Council
thereunder, and the Board of
Directors shall not reject any
such report or reject or amend
any regulations so proposed
without further reference to
the Academic Council.

(4) Subsection (2) shall be
construed to incorporate the
provisions of all other written
laws that govern training,
registration, enrolment and
licensing of health
professionals.

s.12(2) Delete the expression “Board of management”
and substitute therefor the expression “Board
of Directors”.

Delete the expression “Academic Board”.

s.13(1) Delete the expression “Principal, the Deputy
Principals” and substitute therefor the
expression “Chief Executive Officer, the
Deputy Directors”.

(2) Delete the expression “Board of management”
and substitute therefor the expression “Board
of Directors”.

(3) Delete the expression “Board of management”
wherever it appears and substitute therefor the
expression “Board of Directors”.

Delete the expression “Board of management”
and substitute therefor the expression “Board
of Directors”.
Delete the expression “Principal” and substitute therefor the expression “Chief Executive Officer”.

Delete the expression “Board of management” and substitute therefor the expression “Board of Directors”.

Delete the expression “Board of management” and substitute therefor the expression “Board of Directors”.

s.14(1) Delete and substitute therefor the following subsection—

(1) In the event of the incapacity, the functions of the Chief Executive Officer may, during the incapacity, be performed by the Deputy Director appointed for that purpose by the Board of Directors.

(2) Delete and substitute therefor the following subsection—

(2) In the event of the simultaneous incapacity of the Chief Executive Officer and the Deputy Directors, the Cabinet Secretary, after consultation with the chairman of the Board of Directors, may appoint a member of the academic staff of the College to perform the functions of the Chief Executive Officers during such incapacity.

Delete the expression “Principal” wherever it appears and substitute therefor the expression “Chief Executive Officer”.

s.16(1) Delete the expression “Board of management” and substitute therefor the expression “Board of Directors”.

Insert the words “including real estate” immediately after the words “approved for the purpose”.

Delete the expression “Board of management” and substitute therefor the expression “Board of Directors”.

(2)
Delete the expression “Board of management” and substitute therefor the expression “Board of Directors”.

Delete the expression “Board of management” and substitute therefor the expression “Board of Directors”.

Delete the expression “Board of Management” wherever it appears and substitute therefor the expression “Board of Directors”.

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

Delete and substitute therefor the following subsection—

(4) No expenditure shall be incurred for the purposes of the College except in accordance with the annual estimates approved under subsection (3) or in pursuance of an authorization of the Board of Directors given with the prior approval of the Cabinet Secretary.

(5) Where justifiable reasons exist, a college may seek authorization of the Board of Directors given with the prior approval of the Cabinet Secretary for reallocation of funds.

(6) Sources of funds for the College shall be—

(a) the Exchequer

(b) fees charged by the College;

(c) the income from resource mobilization; and

(d) any other that the Board of Directors may authorize.

Delete the expression “Board of management” and substitute therefor the expression “Board of Directors”.

Delete the expression “Board of management” and substitute therefor the expression “Board of Directors”.

Delete the expression “(Corporations)”.

s.19(1) Delete the expression “Board of management” wherever it appears and substitute therefor the expression “Board of Directors”.

Delete the words “boarding charges” appearing in paragraph (e) and substitute therefor the words “user charges”.

Delete and substitute therefor the following subsection—

(2) Notwithstanding subsection (1), the Board of Directors shall not make, amend or revoke any statutes relating to the functions and privileges of the Chief Executive Officer or the Academic Council without first ascertaining the opinion of the Academic Council.

Delete.

Delete.

Delete.

s.20(1) Delete the expression “Board of management” and substitute therefor the expression “Board of Directors”.

Delete the expression “Board of management” and substitute therefor the expression “Board of Directors”.

Delete the words “thirty thousand shillings or to imprisonment for a term not exceeding twelve months or to both” and substitute therefor the words “five hundred thousand shillings or to imprisonment for a term not exceeding two years or to both”.

s.21 Delete the expression “Minister” and substitute therefor the expression “Cabinet Secretary”.

Delete the expression “Board of management” and substitute therefor the expression “Board of Directors”.

s.22(8) Delete the expression “Board of management” and substitute therefor the expression “Board of Directors”.

(9) Delete the expression “Board of management” and substitute therefor the expression “Board of Directors”.
SCHEDULE

Delete the expression “constituent training centres” and substitute therefor the expression “campus” appearing in heading to the Schedule.

Delete the expression “Medical training centres” and substitute therefor the expression “campus” appearing in paragraph 1.

Insert a new paragraph immediately after paragraph 3-

4. The College campuses shall be gazetted annually.

Delete.

Delete the definitions of the terms “dietician” and “nutritionist”.

Insert the following definitions in proper alphabetical sequence—

“article” includes—

(a) any food, Nutrient or food supplements and any labelling or advertising materials in respect thereof; and

(b) anything used for the preparation, preservation, packing or storing of any food, Nutrient or food supplements;

“diet” means food or nutrients concentrates consumed by an individual or population for the purpose of nourishment and can either be formal diets, non-formal diets or informal diets;

“dietetic technologist” means a person who has undergone professional training at diploma level with a bias in dietetics, registered and licensed under this Act;

“dietician” means a person who has undergone professional training at degree level, with bias in clinical dietetics and food service diet therapy registered and licensed under this Act;

“indexing” means a process of keeping an
individual student pursuing a course in nutrition and/or dietetics for purposes of monitoring and subsequent professional examination, registered and licensed under this Act;

“internship” means undergoing supervised one-year competency practice in a specialized area of nutrition or dietetics;

“label” includes any legend, work or mark attached to, included in, belonging to or accompanying any food or food supplements;

“nutrients” means compounds contained in food which nourish the body such as amino acids, simple sugars, fatty acids, vitamins and minerals;

“nutrition technician” means a person who has undergone professional training at certificate level, registered and licensed under this Act;

“nutrition technologist” means a person who has undergone professional training at diploma level, registered and licensed under this Act; and

“nutritionist” means a person who has undergone professional training at degree level, with a bias in clinical, food science, community and public health competencies nutrition registered and licensed under this Act.

Delete and substitute therefor the following section—

Restriction on the use of titles. 3. (1) Subject to the provisions of this Act, no person shall practise under the name, title or style containing the words or phrases “Nutritionist”, or Dietician”, “Nutrition technologist” “Technologist” “Nutrition or Dietetics technicians” unless that person holds a relevant
degree, diploma or certificate from a recognized university or college, registered and licensed under this Act.

(2) Notwithstanding any other provisions of this Act, a person registered and licensed under this Act shall engage in private practice only if he holds a degree and has completed one-year internship or has a minimum two years' experience in nutrition and dietetics.

s.5(2) Delete and substitute therefor the following subsection—

(2) The Council shall consist of—

(a) a chairperson who shall be appointed by the Cabinet Secretary, who shall be a holder of, in the minimum, a Masters' of Science degree in nutrition or dietetics with at least fifteen years of professional experience after the first degree;

(b) one qualified nutritionist or dietician professional 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;

(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) a senior person with knowledge and expertise in matters health from the Ministry of responsible for health who shall be appointed by the Cabinet Secretary;

(h) one member with technical knowledge and competencies on finance who shall be appointed by the Cabinet Secretary;

(i) the Chief Executive Officer as an ex-officio member.

(4) Delete and substitute therefor the following new sub section—

(4) All appointments under this section shall be notified in the Gazette by the Cabinet Secretary for Ministry of Health.

Insert the following subsections immediately after subsection (4)—

(5) The appointments under subsection (2) shall consider gender, regional and ethnic balance.

(6) The Council may establish a maximum of four committees to deal with matters of training, registration, finance and human resource, audit and risk policies management for proper administration of the Act.

(7) The Council shall regulate its own procedures in accordance with the First Schedule.

Insert the following paragraph immediately after paragraph (i)—

(j) working jointly with other bodies, participate actively on reviews of food, food supplements and fortifiers with nutrient claims.

Delete and substitute therefor the following section—
7. Subject to this Act, the Institute may either generally or in a particular case, delegate to any ad hoc committee of the Council or to any member, officer, employee, agent of the Institute or technical working group the exercise of any of the powers of the Institute under this Act.

Delete and substitute therefor the following section—

8. The Institute shall pay such remuneration, fees, and other allowances to members of the Council as may be determined from time to time by Salaries and Remuneration Commission.

Delete and substitute therefor the following section—

9. (1) There shall be a Chief Executive Officer of the Institute who shall be competitively appointed 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 university recognised in Kenya;
(b) has at least ten years professional and administrative experience in matters related to health; and

(c) meets the requirements of Chapter Six of the Constitution.

(3) The Chief Executive Officer shall hold office for a term of five 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 and in consultation with the council shall be spokesperson of the Institute.

New. Insert the following section immediately after section 9—

9A. (1) The Council shall competitively appoint Corporation Secretary on part time or full time to facilitate the functions of the Council.

(2) The Corporation Secretary shall the secretary to the Council but not a member of the Council.

(3) The Corporation Secretary shall discharge his duties as stipulated in the State Corporation guidelines.

(4) Corporation Secretary shall coordinate with the office of the Chief Executive
Officer to facilitate the activities of the Council.

(5) Corporation Secretary shall be a person of high integrity who meets the requirements of Chapter Six of the Constitution of Kenya, 2010.

s.12 Delete.

s.13 Delete and substitute therefor the following new section—

Functions of the Accreditation Committee.

13. The Accreditation Committee shall generally may, in the conduct of examinations—

(a) provide proper training of persons to be registered and licensed;

(b) prepare syllabuses of instruction and training courses for persons seeking registration under the Act;

(c) prepare and conduct examinations for persons seeking registration under the Act;

(d) charge the appropriate examination fees in consultation with the Council of the Institute;

(e) prepare regulations to be made by the Institute regarding the standard of proficiency to be gained in each examination for a
diploma, degree or other award;

(f) develop regulations and offer internship programmes to graduates of nutrition and dietetics;

(g) set up quality assurance unit to generally carry out broad perspectives quality management systems;

(h) develop standards for training institutions for purposes of accreditation and licensing;

(i) engage inspectors for various functions of the Committee who shall serve on such terms and conditions as the Council may determine from time to time;

(j) participate actively in the committees of food and drugs authority within the Health Act, 2017;

(k) review the authenticity and appropriateness of documents to be presented to for purposes of examination, internship, registration and licensing;
(l) spearhead systems audits and certification of processes of the institute;

(m) register and license persons qualified to be registered under this Act;

(n) prepare a list of professionals to be deregistered by the institute in accordance with this Act;

(o) keep a register of all registered members;

(p) keep register of all licensed and retained professionals; and

(q) to carry out the indexing of students enrolled in various institutions and monitor their progression.

s.14 Delete.

s.15 Delete.

s.16(c) Delete and substitute therefor the following subsection—

(c) has passed the professional examination set by the training Committee of the Council.

s.17(1) Delete the expression “Registrar” and substitute therefor the expression “Chief Executive officer”.

s.19(1) Delete the expression “Registrar” and substitute therefor the expression “Chief Executive officer” wherever it appears.

(2) Delete the expression “Registrar” and
substitute therefor the expression “Chief Executive officer”.

(3) Delete the expression “Registrar” and substitute therefor the expression “Chief Executive officer”.

(5) Delete the expression “Registrar” and substitute therefor the expression “Chief Executive officer”.

s.21(1) Insert the following words “within thirty days of notification of the decision” immediately after the word “Court”.

s.25(1) Insert the words “of the institute” immediately after the words “Disciplinary Committee”.

(2) Delete and substitute therefor the following subsection -

(2) The Disciplinary Committee shall consist of—

(a) a chairperson who shall be an advocate of the High Court of not less than eight years standing and nominated by the Law Society of Kenya;

(b) a vice-chairperson who shall be an advocate of the High Court of not less than eight years standing and nominated by the Law Society of Kenya;

(c) one member who shall be qualified nutritionist or dieticians and who is not involved in any other function either as a member of the Council or any committee of Council; and

(d) Chief Executive Officer of the institute as an \textit{ex-officio} member.

Insert the following new subsections immediately after subsection (2)—

(2A) The quorum for the meetings of the Disciplinary Committee shall be four which
shall include at least the chairperson or vice-chairperson.

(2B) The members of the Disciplinary Committee shall be paid such allowances as may from time to time be determined by the Salary and Remuneration Commission.

Delete the words “chief executive officer” and substitute therefor the words “Corporation Secretary”.

Insert the following subsection immediately after subsection (5) -

(6) The Disciplinary Committee shall develop their Standard Operating Procedures which shall be adopted by the instate for proper discharge of duties.

s.27(a)

Insert the words “or under any other written law” immediately after the word “Act”.

Delete.

Insert the following new section immediately after section 27—

27A. (1) There is established a Fund of the Institute to be known as the General Fund.

(2) The Fund shall vest in the Institute and shall be administered by the Council through the Chief Executive Officer.

(3) The Fund shall consist of—

(a) all monies received as subventions, grants or donations to the Fund;

(b) monies earned or arising from any investment of the Fund;
(c) foreign aid and assistance from bilateral and multilateral agencies; and

(d) all other sums which may, in any manner become lawfully payable to, received by or vested in the Institute relating to any matter incidental to its duties and functions under this Act.

Delete and substitute therefor the following section—

Annual estimates. 30. (1) The annual estimates of the Institute shall provide for—

(a) the payment of the salaries, allowances and other charges in respect of the members of the Council, the Chief Executive Officer, the Corporation Secretary and the staff of the Institute;

(b) the payment of pensions, gratuities and other charges in respect of the members of the Council, the Chief Executive Officer, the Corporation Secretary and the staff of the Institute;
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(c) the proper maintenance of the premises of the Institute;

(d) the maintenance, repair and replacement of the equipment and other property of the Institute; and

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

(2) The annual estimates shall be approved by the Institute before the commencement of the financial year to which they relate:

Provided that the amounts in estimates shall not be increased before the prior consent of the Institute.

(3) The Institute shall keep all proper books and records of accounts of the income, expenditure, assets and liabilities of the Institute.

(4) Within a period of four months after the end of a financial year, the Council
shall submit to the members of the Institute at an Annual General Meeting or Special General Meeting convened for that purpose the audited accounts of the Institute together with—

(a) a statement of the income and expenditure of the Institute for that year; and

(b) a statement of the assets and liabilities of the Institute as at the last day of that year.

s.38 Insert the following paragraph after paragraph (g)—

(h) any other matter that may be necessary for the proper administration of the Act.

s.39 Delete.

First Schedule Delete and substitute therefor the following Schedule -

FIRST SCHEDULE

[Section 5(7).]

MEETINGS OF THE INSTITUTE

1. (1) Annual General Meeting of the Institute shall be convened by the Council within the first quarter of every financial year by giving every professional of the Institute in good standing a written notice—

(a) stating the place, where and the day and hour when the meeting is to be held; and

(b) indicating the business which is proposed to transact at the meeting.

(2) Notice of a meeting shall be given not less than fourteen days before the date on which it is to be held to each member of the
Institute by posting the notice to the address of the member last known to the Institute, or by handing the notice to the member in person.

(3) The validity of any proceedings of the Institute shall not be affected by any failure to comply with the requirement of subparagraph (2) of this paragraph unless it is proved that the failure so to comply in relation to any member was a deliberate failure.

2. (1) The chairperson shall preside at all meetings of the institute at which he is present.

(2) At a meeting of the Institute at which the chairperson is not present, members shall choose one of the Council members to preside over the meeting.

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

(2) No business shall be transacted at a meeting of the Institute unless—

(a) the business is indicated in the notice of the meeting as business which it is proposed to transact; or

(b) in the case of business not so indicated, the meeting decides to transact the business and the person presiding at the meeting agrees such transaction.

(3) Minutes of the proceedings at meetings of the Institute shall be kept in such a manner as the chairperson in his absence the person presiding at a particular meeting, directs.

(4) The person presiding at a meeting of the Institute may adjourn the meeting from time to time and from place to place, with the consent of the members.

4. (1) Any question arising at a meeting shall be determined by the majority of the members of the Institute voting on the question.
(2) Voting on any question shall be by a show of hands unless, before the declaration of the result of the voting on the hands, a ballot is demanded—

(a) by the person presiding at the meeting; or

(b) by at least two thirds of the members present, in which event the question shall be determined by a ballot taken in such manner as the person presiding at the meeting directs.

(3) The person presiding at a meeting of the Institute has a deliberative vote, and, in the event of an equality of votes, also has a casting vote.

(4) A declaration by the person presiding at a meeting of the Institute that a resolution has or has not been carried and an entry to that effect in the minutes of the meetings is evidence of that fact.

5. (1) At least Four months before expiry of the term of Council, an Annual General Meeting or Special General Meeting shall be convened by the council for professionals to nominate three qualified members for possible appointment of one of them as a chair of the council as follows—

(a) three persons shall be competitively nominated by professionals through an election and names forwarded by the Cabinet Secretary for appointment;

(b) other positions of the council shall be filled as guided by section 5 and regulations;

(c) such positions shall be confirmed and minutes taken during Annual General Meeting;

(d) for purposes of continuity half of the members of the council shall remain in office for one more term; and
(e) retention of half of the council members shall be based on performance evaluation.

6. (1) A person who holds the office of Chairperson may resign from the office by writing a letter addressed to the Council.

(2) On the advice of the Council, the members of the Institute may appoint a person to act as chairperson during a special general meeting convened for this purpose—

(a) during a vacancy in the office of Chairperson; or

(b) during any period when the Chairperson is for any reason unable to exercise and perform the function of his office.

(3) The appointment of a person to act as Chairperson ceases to have effect if—

made during a vacancy in the office of chairperson, when the vacancy ends by the election of a Chairperson;

the person appointed resigns the office in writing to the Council; or

(c) the Council revokes the appointment under subparagraph (7) of this paragraph.

Delete.

Delete and substitute therefor the following—

“(a) a chairperson appointed by the President”.

Delete.

Delete and substitute therefor the following new paragraph—

(e) four other persons appointed in accordance with subsection (3); one of whom shall be recommended by the County Governments.

Delete the words “competitively recruited and” appearing in the opening statement.

Delete and substitute therefor the following new subsection—
(3) The persons referred to in subsection (1) (e) shall be appointed by the Cabinet Secretary from amongst persons who—

(a) have at least a university degree in a relevant discipline;

(b) have at least ten years’ experience in management or in the health sector;

(c) satisfy the requirements of chapter six of the Constitution; and

(d) is one of the three persons who have been recommended by the County Governments.

s.8(2)(a). Delete and substitute therefor with the following new paragraph—

(a) holds a minimum first degree in Pharmacy, Medicine, Business Management, Finance, Supply Chain Management or any other related field from a recognized University.

(3)(b). Delete.

(4). Insert the words “upon satisfactory performance” immediately after the word “years”.

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

Corporation Secretary.  9A. (1) There shall be Corporation Secretary of the Authority who shall be competitively recruited by the Board and appointed by the Cabinet Secretary and whose terms and conditions of service shall be determined by the Board upon the advice of the Salaries and Remuneration Commission, in the instrument of appointment or otherwise in writing from time to time.

(2) The Corporation Secretary shall be the secretary to the Board and
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shall have the following responsibilities—

(a) provide guidance to the Board on their duties and responsibilities and on matters of governance;

(b) assist the Board in carrying out its work;

(c) be the custodian of the seal of the organization and account to the Board for its use;

(d) maintain and update the register of conflicts of interest;

(e) ensure that Board members are aware of all relevant laws affecting the organization; and

(f) facilitate effective communication between the organization and the shareholders.

s.13 (2).

Delete and substitute therefor the following subsection—

(2) The affixing of the common seal of the Authority shall be authenticated by the signature of the Chief Executive Officer and the Corporation Secretary and any document not required by law to be made under seal and all decisions of the Board may be authenticated by the signatures of both the Chief Executive Officer and the Corporation Secretary.

Delete the definition of the terms “Council”, “Secretary” and “Society”.

Delete and substitute therefor the following paragraph—

(b) one person who shall be nominated by the Cabinet Secretary from the public sector
with knowledge and expertise in health.

(1)(e) Delete and substitute therefor the following paragraph—

e) two persons, one representing counsellors and the other representing psychologists, nominated by registered counsellors and psychologists in the manner prescribed by the Board and appointed by the Cabinet Secretary.

(1)(f) Delete.

(5) Insert the following new paragraph immediately after paragraph (a)—

(aa) holds a doctorate degree in a relevant field from a university recognized in Kenya.

(6) Delete and substitute therefor the following subsection—

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

s.6 Insert the words “and standards” immediately after the word “programs” appearing in paragraph (j).

Insert the following new paragraph immediately after paragraph (j);

(ja) issue guidelines in consultation with the Cabinet Secretary to govern matters related to the practice of counsellors and psychologists.

s.15. Delete.

s.16. Delete.

s.17. Delete.

s.18. Delete.

s.19. Delete.

s.20. Delete.

s.21. Delete.
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s.22. Delete.

s.23(a) Delete the expression “at least a bachelor’s” and substituting therefor the words “a masters”;

(b) Delete the expression “at least a bachelor’s” and substituting therefor the words “a masters”.

s.28(1) Delete and substitute therefor the following subsection—

(1) A person shall not practice as a counsellor or psychologist unless such a person has—

(a) been registered under the Act;

(b) complied with the prescribed requirements for continuing education and supervision; and

(c) been issued with a valid practising licence by the Board in accordance with Regulations made under this Act.

First Schedule, paragraph 3(5). Delete the word “seven” and substitute therefor the word “five”.

Second Schedule. Delete and substitute therefor the following Schedule—

SECOND SCHEDULE

(s.12(5))

COMMITTEES OF THE BOARD

The Board shall establish an Audit Committee, and a maximum of three other committees, to discharge the following functions: governance; technical matters; risk; strategy; compliance; human resources; and finance.

Third Schedule. Delete.

Physiotherapists Act, 2014 (No. 20 of 2014). Insert the following new definition in proper alphabetical sequence—

“physiotherapy” means the application of physiotherapy knowledge, skill and judgment by a physiotherapist to obtain, regain or maintain optimal health and functional performance and includes but is not limited to—
(a) the assessment of neuromusculoskeletal and cardio respiratory, neural and vascular systems and establishment of physiotherapy diagnosis;

(b) the development, progression, implementation and evaluation of physiotherapeutic interventions;

(c) the education of patients, care providers on matters of health promotion, wellness, disease prevention and rehabilitation givers, students and other health service.

(d) the manual therapy treatment techniques including soft tissue manipulation, proprioceptive neuromuscular facilitation, manual lymphedema drainage and muscle relaxation techniques;

(e) the spinal and peripheral joints mobilization and manual manipulation;

(f) work-place and modifications, prescription, fabrication, modification and application of braces, splints, taping, mobility aids or seating equipment;

(g) sports and physical activity pre-participation screening and assessment, sports injury prevention, treatment and rehabilitation. hydrotherapy, electrotherapy and use of mechanical, radiant or thermal energy;

(h) the ergonomic evaluation, modification, education, assessment and categorization of disability and counseling;

(i) tracheal suctioning;

(j) the administration of physiotherapy related medication as prescribed by a physician; and
(k) performing such other aspects of physiotherapy as may be prescribed in regulations.

s.4(2)(e) Delete and substitute therefor the following new subsection—

(e) in collaboration with the Council for University Education and Technical and Vocational Educational and Training Authority, approve and accredit institutions offering physiotherapy training leading to registration under this Act;

s.6(1)(b) Delete and substitute therefor the following paragraph—

(b) a person from the Ministry responsible for health with expertise in health appointed by the Cabinet Secretary.

Insert the following new paragraphs immediately after paragraph (d)—

(da) Director of Physiotherapy Services in the national government or the designated representative; and

(db) a person with financial expertise appointed by the Cabinet Secretary

s.13(1) Insert the following new paragraph immediately after paragraph (a) -

(aa) funds that may be appropriated by the National Assembly.

s.19(1) Delete and substitute therefor the following new subsection—

(1) The Council shall approve and recognize all training institutions that offer courses in physiotherapy.

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

(1A) No person, being in charge of a training institution in Kenya, shall—
(a) admit persons for training with a view to qualifying for registration under this Act;

(b) conduct a course of training or administer the examination prescribed for the purposes of registration under this Act; or

(c) issue any document or statement implying that the holder thereof has undergone a course of training or passed the examinations prescribed by the Council for purposes of registration,

(d) unless such institution is established or accredited under the Universities Act, 2012 or the Technical and Vocational Education and Training Act, 2013, and is approved and recognized by the Council for that purpose in accordance with this Act.

Delete the words “health records and information management or science” appearing in the definition of the term “health records and information diploma” and substitute therefor the words “health records and information Technology”.

Delete the definition of the term “Manager” and substitute therefor the following definition—

“Manager” means a Health Records and Information Technician or Technologist or Officer charged with the responsibilities of managing Health Records and Information for health services.

Insert the expression “section 7(3) and” immediately after the words “established by” appearing in the definition of the term “Committee”.

Delete the words “and to safeguard the interests of all managers”.

The Health Records and Information Managers Act, 2016 (No. 15 of 2016)
s.7(1)(a) Delete and substitute therefor the following paragraph—

“(a) the Chairperson appointed by the Cabinet Secretary amongst the persons nominated from the public sector with knowledge and expertise in health nominated under paragraph (g).

(1)(b) Insert the words "Director or" immediately after the word "the".

(1)(c) Delete and substitute therefor the following paragraph—

(c) two representatives, one from middle level training colleges and one from universities training managers.

(1)(d) Delete and substitute therefor the following paragraph—

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

(a) the private sector;
(b) faith-based organisations; and
(c) the Association;

(1)(e) Delete and substitute therefor the following paragraph—

(e) one person, with expertise in financial management or accounting and is 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.

(1)(f) Delete and substitute therefor the following paragraph—

(f) a person appointed by the Cabinet Secretary.

(1)(g) Delete.

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

(3) The Board shall appoint an audit committee and up to three (3) other committees that shall be dealing with matters of finance, risk, standards and education, registration and licensing, human resource, discipline and ethics for the effective performance of its functions.

Insert the following new subsection immediately after subsection (3)—

(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.

Delete the word “diploma” and substitute therefor the word “certificate”.

Delete and substitute therefor the following subsection—

(1) A person, being in charge of a training institution in Kenya, shall not—

(a) admit persons for training for the purpose of qualifying for registration under this Act;

(b) conduct a course of training or administer the examination prescribed for the purposes of registration under this Act; or

(c) issue any document or statement implying that the holder thereof has undergone a course of training or passed the examinations prescribed by the Board for purposes of registration,

unless the training is to be conducted by the Kenya Medical Training College or an institution approved by the Board or is established or accredited under the Universities Act.

Delete the word “shall” and substitute therefor the word “may”.
s.24(6) Insert the following paragraph immediately after paragraph (b)—

(c) the scope of practice entails—

(i) consulting in clinical coding;
(ii) coding for insurance firms;
(iii) capacity building in disease classifications and health information management;
(iv) appraisal of medical documentations and audits;
(v) medical data analytics and research;
(vi) use of e-health applications;
(vii) development of strategic documents and policies in health records and information management services;
(viii) advice on medical legal issues;
(ix) advice on retrieval and disposal of medical records;
(x) management of bed bureaus; or
(xi) consultancy in administrative statistics and big data analytics.


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

"Kenya Clinical Officers Association" means the Kenya Clinical Officers Association registered by the Registrar of Societies.

s.4(1) Delete paragraph (e) and substitute therefor the following new paragraph—

(e) a clinical officer representing the national executive committee of the Kenya Clinical Officers Association.

Delete paragraph (g) and substitute therefor the following new paragraph—

(g) a person with financial expertise appointed by the Cabinet Secretary.
Insert the following new paragraphs immediately after paragraph (h)—

(i) two clinical officer’s, one in public practice and the other in private practice from each gender nominated by the Cabinet Secretary; and

(j) a person with human resource expertise appointed by the Cabinet Secretary.

Insert the following new subsection immediately after subsection (4)—

(5) The Council shall, at its first sitting, elect a chairperson and vice chairperson from amongst its members.

Insert the following new subsection immediately after subsection (6)—

(7) A member of the Council other than ex officio member may—

(a) by notice in writing addressed to the Cabinet Secretary, resign from office;

(b) be removed from office by the Cabinet Secretary, if the member—

(i) has been absent from three consecutive meetings of the full Council without permission of the chairman;

(ii) is convicted of criminal offence and sentenced to imprisonment for a term exceeding six months; or

(iii) is incapacitated by physical or mental illness that leads to inability to perform the functions of the office.

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

(1A) A person shall be qualified for appointment as Registrar if that person—

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

(b) is registered as a clinical officer under this Act.
(1B) The Registrar shall serve a term of four years and shall be eligible for re-appointment for a further and final term of four years.

(6) Delete the word “Gazette” and substitute therefor the words “official Clinical Officers Council website” appearing in paragraph (a).

Part IV

Delete the heading under Part IV and substitute therefor the following new heading—

**PART IV—PROVISIONS RELATING TO LICENSING AND PRIVATE PRACTICE**

s.20

Insert the following new subsections immediately after subsection (4)—

(5) The Council shall register and license medical centres and medical clinics for private practice by clinical officers.

(6) No premises shall be used for the purpose of private practice unless such premises is inspected, registered and licensed by the Council.

(7) The initial inspection for licensing shall be conducted by a joint inspection team or any relevant authorized body for the purposes of this Act.

(8) The Council shall have power to enter private practice premises at all times, for the purposes of this Act.

(9) A clinical officer licensed under this Act may, with respect to patients—

(a) examine;

(b) diagnose;

(c) order laboratory and imaging investigations;

(d) prescribe treatment; and

(e) perform invasive procedures as per their scope of training and specialty.

s.34

Delete.
MEMORANDUM OF OBJECTS AND REASONS

The Health Law (Amendments) Bill, 2018 seeks to make various, wide-ranging amendments to various health-related statutes on matters relating to health policy.

The Bill contains proposed amendments to the following statutes —

*The Radiation Protection Act (Cap. 243)*

The Bill proposes to amend the Radiation Protection Act (Cap.243) to confer corporate status to the Radiation Protection Board established under the Act to make it achieve greater functional and operational autonomy in the light of the emerging importance of radiological and nuclear technology and the challenges of radiological nuclear security; and regulate exposure of non-ionizing radiation in this country.

*The Medical Practitioners and Dentists Act, (Cap. 253)*

The Bill proposes to amend the Medical Practitioners and Dentists Act, (Cap. 253) to establish the Council to be in line with the recommendations of the East African Community Partner States, Ministers of Health that directed for harmonization of health regulatory bodies. The Bill also restructures the Council members to align it with what is provided for in Mwongozo. The Bill also seeks to provide for the functions of the Council and align it with Mwongozo code which provides that a Board should not have more than four committees. The Bill also seeks to protect the profession and the public from quacks who use the term ‘doctor’ illegally and to lure the public to substandard service.

*The Nurses Act (Cap 257)*

The Bill proposes to amend the Nurses Act, (Cap 257) to be in line with the Constitution and Mwongozo Code of Governance for State Corporations. The amendments are intended to apply the ruling of the High Court in Constitutional Petition No. 285 of 2015.

*The Kenya Medical Training College Act, (Cap 261)*

The Bill proposes to amend the Kenya Medical Training College Act, (Cap 261) to be in line with the Constitution and Mwongozo –Code of Governance for State Corporations. The Bill also seeks to clearly define sources of funds of the College and to ensure that it conforms to the Constitution and Public Finance Management Act, 2012.

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

The Bill proposes to amend the Nutritionists and Dieticians Act (No. 18 of 2007 to be in line with the Constitution and Mwongozo –Code of Governance for State Corporations. The Bill seeks to restructure the membership of the Council to take care of the critical areas for proper functioning of the Council as were identified in previous stakeholders’ meetings. The Bill seeks to ensure that internship is being implemented as
proxy to examination. The Bill also seeks to provide for the stakeholders need to form an independent disciplinary arm of the institute to prevent interference in charging duties.

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

The Bill seeks to amend the Kenya Medical Supplies Authority Act, 2013 on the composition of the Authority to clarify on the mode of appointment of the chairperson, and provide for the requirements as a member of the Authority. It further seeks to provide for the corporation secretary for the Authority.

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

The Bill seeks to amend the Counsellors and Psychologists Act, 2014, (No. 14 of 2014) to streamline the regulation, operations and practice of counsellors and psychologists in line with Article 43(1)(a) of the Constitution and government policy. The Bill deletes provisions establishing the Counsellors and Psychologists Society of Kenya which will ensure that counsellors and psychologists, like other health professions fall under the purview of the Ministry of Health as is standard practice.

The enactment of this Bill may occasion additional expenditure of public funds to be provided for in the estimates.

This Bill is a Bill not concerning county governments within the meaning of Article 110 of the Constitution, as it addresses matters relating to health policy, which falls within the powers of the national government under the Fourth Schedule to the Constitution of Kenya, 2010.

*Physiotherapists Act, 2014 (No. 20 of 2014)*

The Bill seeks to amend the Physiotherapists Act, 2014 (No. 20 of 2014), to provide a definition of the word physiotherapy which was not done in the Act. The Bill seeks to provide for the Council to determine the professional competence and the standards necessary for training physiotherapists. The Bill also seeks to provide for the inclusion of a representative from the Ministry of Health, the Director of Physiotherapy Services and a person with financial expertise to be part of the Physiotherapists Council.

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

The Bill proposes to amend the Health Records and Information Managers Act, 2016, (No. 15 of 2016) to align it with the Health Act 2017. The Bill also seeks to align the Act with the “Mwongozo” code of governance for state corporations.
The Bill proposes to amend the Clinical Officers (Training, Registration and Licensing) Act, 2017 to ensure compliance with Mwongozo and to introduce new provisions to streamline the issue of licensing of clinical officers in private practice.

Dated the 29th March, 2018.

ADEN DUALE,
Leader of Majority Party.
Section 4 of Cap. 243 which it is proposed to amend—

Establishment of the Board.

There is hereby established a Board to be known as the Radiation Protection Board which shall perform the duties and have powers conferred on it by this Act.

Section 5 of Cap. 243 which it is proposed to amend—

Membership of the Board.

(1) The Board shall consist of—

(a) a chairman appointed by the Minister;

(b) the Director of Medical Services;

(c) the following persons appointed by the Minister—

(i) a public officer nominated by the Minister for the time being responsible for labour;

(ii) a public officer nominated by the Minister for the time being responsible for higher education;

(iii) a public officer nominated by the Minister for the time being responsible for industry;

(iv) a public officer nominated by the Minister for the time being responsible for agriculture;

(v) a person nominated by the National Council for Science and Technology;

(vi) not more than two persons having special knowledge in safe handling of radiation sources;

(vii) a public officer nominated by the Minister for the time being responsible for foreign affairs;

(viii) an officer from the Kenya Defence Forces;

(ix) an officer from the National Intelligence Service;

(x) an officer from the National Police Service; and

(xi) an officer from the Kenya Revenue Authority.

(d) the Chief Radiation Protection Officer who shall act as the secretary to the Board but shall not vote on any matter brought before the Board.
(2) The members of the Board, other than ex officio members, shall hold office for a period of three years but shall be eligible for reappointment.

(3) The Board may exercise its powers and perform its duties notwithstanding any vacancy in its membership.

Section 7 of Cap. 243 which it is proposed to amend—

Functions of the Board.

Subject to the provisions of this Act, the Board shall have the following powers—

(a) to advise the Minister on matters relating to radiation protection and radioactive waste disposal;

(b) to implement the provisions of this Act and regulations made thereunder;

(c) to grant or refuse to grant or to extend licences issued under this Act and to impose any necessary conditions on a licence so granted;

(d) to keep a register of the owners of irradiating devices, radioactive materials and other sources of ionizing radiation imported into or manufactured in Kenya and of premises licensed to dispose of radioactive waste.

Section 12 of Cap. 243 which it is proposed to amend—

Duties of licencees, etc.

(1) The holder of a licence shall be responsible for ensuring that exposure to ionizing radiation resulting directly or indirectly from its operation, conditions of storage, transport or disposal shall be kept as low as reasonably practicable below the prescribed limits.

(2) The owner of a facility shall appoint a person experienced in radiation health and safety measures as a radiation safety officer within the facility who shall ensure that—

(a) all persons using or working in the facility are supplied with at least one monitoring device and any other protective accessories necessary to carry out radiation procedures with the lowest reasonably achievable risk;

(b) all radiation workers employed within the facility are given proper instructions on radiation safety measures and receive a medical check-up after every six months;
(c) proper care is taken of radioactive wastes if they appear in the course of the use of radiation sources as described in the code of practice for protection of persons exposed to ionizing radiation and that the wastes are only disposed of in accordance with the licence granted for that purpose;

(d) exposure records are kept as prescribed in the code of practice for users of ionizing radiation;

(e) any other instructions that may be issued from time to time by the Board are implemented.

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

(1) The Cabinet Secretary shall appoint a Board to be known as the Pharmacy and Poisons Board which shall consist of the following persons—

(a) the Director of Medical Services who shall be the chairman;

(b) the Chief Pharmacist;

(c) the Director of Veterinary Services or a veterinary surgeon, nominated by him;

(d) three pharmacists representing the categories specified in this paragraph and appointed by the Cabinet Secretary from nine names competitively nominated by the Pharmaceutical Society of Kenya with due regard to gender, in which case the Society shall submit three names in respect of each of the following categories —

(i) the public service;

(ii) the community pharmacy; and

(iii) the Pharmaceutical industry.

(e) two persons representing the faculty boards of the departments of pharmacy in universities of whom—

(i) one shall be nominated by a forum of public universities teaching pharmacy; and

(f) one shall be nominated by a forum of private universities teaching pharmacy. (f) one pharmaceutical technologist appointed by the Cabinet Secretary from a panel of names submitted by the Kenya Pharmaceutical Association.
(2) Those members of the Board appointed under paragraphs (d), (e) and (f) of subsection (1)—

(a) shall hold office for a period of three years but shall be eligible for re-appointment;

(b) may at any time resign by instrument in writing addressed to the Chairman.

(3) Notwithstanding the provisions of subsection (2), the Cabinet Secretary may, if at any time it appears to him that a member of the Board has failed to carry out his functions under this Act, revoke the appointment of that person and shall appoint another person under subsection (1) in place of that member for the remainder of the period of office of that member, and if that member is nominated or elected by any other authority or body, his nomination or election shall be deemed to have been annulled on account of the revocation of his appointment to the Board.

(4) The Cabinet Secretary may appoint an appropriately qualified person to act temporarily in the place of any member of the Board other than the Chairman in the case of death, illness, resignation or absence from Kenya.

(5) The appointment, removal, death, resignation of any member shall be notified in the Gazette.

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

(a) suing and being sued;

(b) acquiring, holding and disposing of property;

(c) borrowing and lending money.

Section 5 of Cap. 244 which it is proposed to amend—

(1) There shall be a registrar of the Board who shall be the Chief Pharmacist.

(2) The registrar shall perform such duties and exercise such powers, in addition to those required under the provisions of this Act to be performed and exercised, as the Board may from time to time direct.
Section 20 of Cap. 244 which it is proposed to amend—

(1) It shall not be lawful for any person to carry on the business of a pharmacist unless the name and certificate of registration of the person having control of the business are conspicuously exhibited in the premises in which the business is carried on.

(1A) No person shall carry on the business of a pharmaceutical technologist unless the name and certificate of enrolment of the person having control of the business are conspicuously exhibited in the premises in which the business is carried on.

(2) Any person contravening the provisions of this section shall be guilty of an offence and shall be liable on conviction to a fine not exceeding twenty thousand shillings, or to imprisonment for a term not exceeding one year, or to both.

Section 23 of Cap. 244 which it is proposed to amend—

(1) It shall not be lawful for any person to carry on the business of a pharmacist except in premises registered in accordance with this section.

(2) Application for registration of premises shall be made to the Board in the prescribed form, and shall be accompanied by such fee, not exceeding one hundred shillings, in respect of the registration of any set of premises, as may be prescribed.

(3) The registration of any premises under this section shall become void upon the expiration of thirty days from the date of any change in the ownership of the business carried on therein.

(4) The Board may, for good and sufficient reason to be stated in writing, refuse to register or may cause to be deleted from the register any premises which in the Board’s opinion are or have become unsuitable for the carrying on therein of the business of a pharmacist.

(5) It shall be the duty of the registrar to keep a register in the form prescribed of all premises registered under the provisions of this section.

(6) Any person contravening the provisions of subsection (1) of this section shall be guilty of an offence
and shall be liable to a fine not exceeding thirty thousand shillings or to imprisonment for a term not exceeding three years or to both such fine and imprisonment.

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

1. No person shall manufacture any medicinal substance unless he has been granted a manufacturing licence by the Board.

2. Each manufacturing licence shall expire on the 31st December of every year and the renewal thereof shall be subject to compliance with conditions prescribed by the Board.

3. No person shall manufacture any medicinal substance for sale unless he has applied for and obtained a licence from the Board in respect of each substance intended to be manufactured.

4. Any person who intends to manufacture a medicinal substance shall make an application in the prescribed form for the licensing of the premises; and the application shall be accompanied by the prescribed fee.

5. The Director of the National Drug Quality Control Laboratory or any member of the Laboratory staff authorized by him shall have power to enter and sample any medicinal substance under production in any manufacturing premises and certify that the method of manufacture approved by the Board is being followed.

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

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 46 of Cap. 244 which it is proposed to amend—

Retention and disposal of goods seized.

(1) Any drug, article or document seized under the provisions of section 45 of this Act may be retained for a period not exceeding one month or if within that period proceedings are commenced for an offence under this Act in respect of such drug, article or document, until the final determination of those proceedings.

(2) Where a magistrate is satisfied that any such drug or article is of a perishable nature or that by reason of the fact that the market for any such drug or article is seasonal, or for any other reason, any delay in disposing of the drug or article would unduly prejudice the owner thereof, he may authorize the sale or other disposal of such drug or article.

(3) Where proceedings are taken for any offence against this Act the court by or before which the alleged offender is tried may make such order as to the forfeiture or other disposal of any drug or article in respect of which such offence was committed as the court shall see fit.

(4) In this section references to a drug or article shall be co

Section 5 of Cap. 253 which it is proposed to amend—

Registrar and register.

(1) For the purpose of this Act, there shall be a Registrar of Medical Practitioners and Dentists.

(2) The Director of Medical Services shall be the Registrar, and shall perform such duties in connection with the register as are prescribed by this Act.

(3) The Registrar shall keep a register of medical practitioners and dentists in the prescribed form.

Section 6 of Cap. 253 which it is proposed to amend—

Registration of medical practitioners and dentists.

(1) Every person eligible to be registered as a medical practitioner or as a dentist may apply in the prescribed form to the Registrar for registration in the register, and every such application shall be accompanied by the prescribed fee.
(2) Where a person has complied with the provisions of subsection (1) and has been accepted by the Board as being eligible for registration and has satisfied the Registrar that he has been so accepted, he shall be registered.

Section 11 of Cap. 253 which it is proposed to amend—

 Persons eligible to be registered as medical or dental practitioners.

(1) Subject to the provisions of this section, a person shall be eligible for registration under this Act as a medical or dental practitioner if he is the holder of a degree, diploma or other qualification which is recognized by the Board as making him eligible for registration, and—

(a) after obtaining that degree, diploma or other qualification, he has engaged in training employment in a resident medical capacity in one or more institutions approved by the Board for such period, being not less than one year, as the Board may approve; and

(b) he satisfies the Board that, whilst engaged in training employment under paragraph (a), he has acquired sufficient knowledge of, and experience in, the practice of medicine or dentistry, as the case may be; and

(c) he satisfies the Board that he is a person of good moral character and a fit and proper person to be registered under this Act.

(2) Where the Board does not recognize a degree, diploma or other qualification in medicine or dentistry held by a person as making him eligible for registration, it shall take steps to assess his suitability for registration and for the purpose of so doing may require him to attend an interview and to undergo any oral or written examination.

(3) The Board may, after assessing the suitability for registration of a person under subsection (2), direct that before registration he shall undergo such further period of training or pass such further examination as it may specify.

(4) The Board shall not authorize the registration of a person until it is satisfied that the requirements of
subsection (1) have been fulfilled or, in the case of a person referred to in subsection (2), that the requirement of paragraphs (a), (b) and (c) of subsection (1) have been fulfilled and that any further period of training or examination directed by it under subsection (3) has been completed or passed.

(5) The Board may, where it considers it expedient so to do, delegate the assessment of suitability for registration under subsection (2) to a committee of the Board which shall, after making the assessment, make recommendations to the Board accordingly.

Section 12 of Cap. 253 which it is proposed to amend—

Person registered may have additional qualifications inserted in the register.

Every person registered under this Act who has obtained a higher degree or qualification than the qualification in respect of which he has been registered shall be entitled to have that higher degree or additional qualification inserted in the register in substitution for or in addition to the qualification previously registered, on the payment of the prescribed fee.

Section 13 of Cap. 253 which it is proposed to amend—

Licensing of persons to render medical or dental services.

(1) Notwithstanding any of the other provisions of this Act, the Board may, if it is satisfied that it is in the public interest to do so, confer upon any person who is not otherwise eligible to be registered as a medical practitioner or as a dentist under the provisions of this Act, by the issue, under the signature of the Director of Medical Services, of a licence to do so, the right to render medical or dental services.

(2) Every such licence shall be for such period and may contain such conditions as the Director of Medical Services shall, with the consent or on the instruction of the Board, impose.

(3) Any licence issued under this section may be cancelled or revoked and withdrawn at any time by the Director of Medical Services with the consent or on the instructions of the Board.

Section 14 of Cap. 253 which it is proposed to amend—

Effects of registration and licence under section 13.

(1) Registration as a medical practitioner or a dentist under this Act, or the granting of a licence under section
13, shall only entitle the person so registered or so licensed to practise medicine or dentistry or to render medical or dental services, as the case may be, in a salaried post under a Government or local government health scheme or in such salaried posts in such institutions as the Board may from time to time approve.

(2) No medical practitioner or dentist shall act as or engage in private practice as a private practitioner or may be employed by a private practitioner, unless he holds a licence to engage in private practice under the provisions of section 15.

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

Licences for private practice.

(1) The Board may authorize the Registrar to issue to a medical practitioner or a dentist who has applied in the prescribed form and whom the Board considers has had suitable working experience in medicine or in dentistry, as the case may be, a licence to engage in private practice on his own behalf as a private practitioner or to be employed, either whole time or part time, by a private practitioner.

(2) The Registrar shall issue, on payment of the prescribed fee, a licence in the prescribed form to persons who are authorized by the Board under subsection (1).

(3) Licences shall be granted for a period of one year at a time and shall state whether the person so licensed may practise as a private practitioner on his own behalf or may be employed by a private practitioner.

(4) The Board may refuse to issue or to renew a licence to engage in private practice to any person and may withdraw a licence it has issued.

(5) No premises may be habitually used for the purposes of private practice unless they are authorized for such use by the Board.

(6) A person aggrieved by a decision of the Board under this section may appeal to the High Court, and in any such appeal the High Court may annul or vary the decision as it thinks fit.

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

Licences to be published in the Gazette. The issue and the cancellation, revocation or withdrawal of a licence under section 13 or section 15 shall be published in the Gazette.
Section 20 of Cap. 253 which it is proposed to amend—

Disciplinary proceedings.

(1) If a medical practitioner or dentist registered or a person licensed under this Act is convicted of an offence under this Act or under the Penal Code (Cap. 63), whether the offence was committed before or after the coming into operation of this Act, or is, after inquiry by the Board, found to have been guilty of any infamous or disgraceful conduct in a professional respect, either before or after the coming into operation of this Act, the Board may, subject to subsection (9), remove his name from the register or cancel any licence granted to him.

(2) Upon any inquiry held by the Board under subsection (1) the person whose conduct is being inquired into shall be afforded an opportunity of being heard, either in person or by an advocate.

(3) For the purpose of proceedings at an inquiry held by the Board, the Board may administer oaths and may, subject to the provisions of rules made under section 23, enforce the attendance of persons as witnesses and the production of books and documents.

(4) Subject to the foregoing provisions of this section and to rules as to procedure made under section 23, the Board may regulate its own procedure in disciplinary proceedings.

(5) The power to direct the removal of the name of a person from the register or to cancel the licence of a person shall include a power exercisable in the same manner to direct that during such period as may be specified in the order the registration of a person’s name in the register or the licence granted to him shall not have effect.

(6) A person aggrieved by a decision of the Board under the provisions of this section may appeal within thirty days to the High Court and in any such appeal the High Court may annul or vary the decision as it thinks fit.

(7) The provisions of this section, in so far as they relate to the cancellation or suspension of licences, shall be in addition to and not in derogation of the provisions of section 13 or 15.
(8) A person who fails when summoned by the Board to attend as a witness or to produce any books or documents which he is required to produce shall be guilty of an offence and liable to a fine of two thousand shillings or to imprisonment for one month.

(9) Notwithstanding the provisions of subsection (8) of section 4, the Board shall not remove the name of a person from the register, or cancel any licence granted to a person, under subsection (1) of this section unless at least ten members of the Board so decide.

Section 22 of Cap. 253 which it is proposed to amend—

(1) Any person who wilfully and falsely takes or uses any name, title or addition implying a qualification to practise medicine or surgery or dentistry, or who, not being registered or licensed under this Act, practises or professes to practise or publishes his name as practising medicine or surgery or dentistry, or who, not being licensed under section 15, practises as a private practitioner, shall be guilty of an offence and liable to a fine not exceeding ten thousand shillings, or to imprisonment for a term not exceeding twelve months or to both.

(2) Subject to this Act, no person shall use the title "doctor" unless he is registered or licensed under this Act as a medical or dental practitioner or he has acquired a higher academic doctoral qualification which entitles him to use that title and any person who contravenes the provisions of this subsection shall be guilty of an offence and liable to a fine not exceeding ten thousand shillings or to imprisonment for a term not exceeding two years or to both.

(3) Nothing in subsection (1) shall make it an offence for a person in the service of—

(a) the medical department of the Government; or

(b) a hospital, dispensary or similar institution which the Director of Medical Services, by notice in the Gazette, declares to be an approved institution for the purposes of this section, to render medical assistance in the course of his duties in such service or for a person to carry out treatment under
the direction, supervision and control of a medical practitioner or a dentist or of a person licensed under section 13.

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

Membership of the Council.

(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—

(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 10 of Cap. 257 which it is proposed to amend—

(1) The Council shall appoint committees in the following areas—

(a) human resources and finance;
(b) registration and licensing;
(c) education, research and examination;
(d) discipline, standards and ethics.

(2) The Council may from time to time appoint such other committees as it may deem necessary for the more effective carrying out of its functions under this Act.

(3) Any committee appointed by the Council under subsection (1) or (2) shall consist of such persons as the Council deems necessary.

(4) The Council may prescribe and fix a quorum for each of its committees and may delegate to any committee such of its powers and duties as it deems fit.

(5) Except where the Council has by resolution authorized a committee to manage, regulate, or conclude any matter, no act of a committee shall be binding on the Council until it has been approved by the Council.

(6) A committee appointed under this section shall elect its own chairman and may also elect a vice-chairman.

(7) The Registrar or his deputy shall be the secretary of all committees appointed under this Act.

(8) Any committee other than a standing committee may be dissolved after notice of a motion to that effect by the vote of the majority of the Council.

Section 10 of Cap. 257 which it is proposed to amend—

(1) The Council shall, with the approval of the Minister, appoint a Registrar who shall be a registered nurse and who shall perform such duties as may be prescribed by this Act or directed by the Council.

(2) The Council may, with the approval of the Minister, appoint such other officers as the work of the Council may require, and those officers shall perform such duties as the Council may direct.

(3) The Registrar shall keep up to date or cause to be kept up to date all registers, rolls and records required to be kept under or for the purposes of this Act, subject to any directions which may from time to time be issued to him by the Council.
(4) A fee, to be known as a retention fee, may be prescribed for payment annually, or at such longer intervals as the Council may deem appropriate, by any person whose name appears on a register or roll as a condition of maintaining his name thereon.

(5) The Registrar and other officers appointed under this section shall be paid such remuneration and allowances as the Council, with the approval of the Minister, may from time to time determine.

Section 3 of No. 18 of 2007 which it is proposed to amend—

Restriction on use of title.

Subject to the provisions of this Act, no person shall practise under any name, title or style containing the words or phrases “Nutrition”, “Nutritionist”, or “Dietician”, unless that person is registered under this Act as a nutritionist or dietician, as the case may be.

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

Establishment and composition of the Council of the Institute.

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

(2) The Council shall consist of—

(a) a Chairperson elected in terms of the First Schedule, who shall be a qualified nutritionist or dietician with at least 5 years of professional experience; and

(b) four other nutritionists or dieticians, at least two of whom shall be women, elected in the manner set out in the First Schedule;

(c) the Director of Medical Services, or his representative nominated by him/her in writing;

(d) the Director of Nutrition and Dietetic Services in the Ministry of Health;

(e) the Chief Nutritionist in the Kenyatta National Hospital;

(f) one representative of the Kenya Medical Association, elected by the Association;

(g) four representatives appointed from four registered associations of nutritionists and dieticians;

(h) one representative of the Federation of Kenya...
Consumer Organisations, elected by the Federation;

(i) one representative of faculties of nutrition and dietetics of public universities, elected at a meeting of the faculties convened by the Kenya Coalition for Action in Nutrition;

(j) one representative of faculties of nutrition and dietetics of private universities, elected at a meeting of the faculties convened by the Kenya Coalition for Action in Nutrition; and

(k) two representatives from faculties of Nutrition and Dietetics from private and public diploma colleges.

(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.

Section 13 of No. 18 of 2007 which it is proposed to amend—

The Accreditation Board shall generally have regard to the conduct of examinations and in particular shall—

(a) prepare syllabuses of instruction and training courses for persons seeking registration under the Act;

(b) prepare and conduct examinations for persons seeking registration under the Act;

(c) charge the appropriate examination fees in consultation with the Council of the Institute;

(d) prepare regulations to be made by the Institute regarding the standard of proficiency to be gained in each examination for a diploma, degree or other award; and

(e) report its decisions to the Council.

Section 25 of No. 18 of 2007 which it is proposed to amend—

(1) There is hereby established a committee to be known as the Disciplinary Committee.
The Health Laws (Amendment) Bill, 2018

(2) The Committee shall consist of—

(a) a Chairperson appointed by the Council as per the First Schedule who shall be a qualified nutritionist or dietician with at least ten years’ experience;

(b) an advocate of the High Court with at least seven years’ experience appointed by the Council;

(c) the Chairperson of the Registration Committee;

(d) two members who shall be qualified nutritionists or dieticians with at least five years’ experience elected by the Council; and

(e) the Chairperson of the Accreditation Board.

(3) The chief executive officer of the Institute shall be the Secretary of the Disciplinary Committee but shall not have voting power.

(4) The Disciplinary Committee shall receive and investigate complaints against nutritionists and dieticians in accordance with the rules and regulations under this Act.

(5) Subject to this Act the Disciplinary Committee shall regulate its own procedures.

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

Board of directors.

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

(a) a non-executive chairperson appointed in accordance with subsection (2);

(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;

(d) the Principal Secretary for the time being responsible for matters related to devolved
government or a representative designated in writing by the Principal Secretary;

e) four other persons appointed in accordance with subsection (3);

(f) the chief executive officer of the Authority who shall be an ex officio member.

(2) The chairperson shall be competitively recruited and appointed by the President from amongst persons who—

(a) have at least a university degree in a relevant discipline;

(b) have at least fifteen years experience in matters relating to healthcare or business management;

(c) satisfy the requirements of Chapter Six of the Constitution.

(3) The persons referred to in subsection (1)(e) shall be competitively recruited and appointed by the Cabinet Secretary from amongst persons who—

(a) have at least a university degree in a relevant discipline;

(b) have at least ten years experience in management or in the health sector; and

(c) satisfy the requirements of chapter six of the Constitution.

(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.

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

Composition of the Board.

(1) The Board shall consist of —

(a) a chairperson to be appointed by the Cabinet Secretary;

(b) the Principal Secretary in the Ministry for the time being responsible for matters relating to health or his or her nominee;

(c) the principal Secretary in the Ministry for the time being responsible for matters relating to national treasury;

(d) two persons appointed by the Cabinet Secretary to represent training institutions of learning in Kenya which have power to grant a qualification which is recognized under this Act, one representing institutions of higher learning and the other middle level institutions;

(e) four persons, of whom two shall be counsellors and two shall be psychologists, elected by licensed counsellors and psychologists, in the manner prescribed by the Board, and appointed by the Cabinet Secretary;

(f) two persons nominated by the Council;

(g) one person appointed by the Cabinet Secretary to represent minorities and marginalised groups; and

(h) the Registrar, who shall be 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 five years experience in counselling or psychology;

(b) meets the requirements of Chapter Six of the Constitution.

(6) In appointing the members of the Board under subsection (1) (d), (e), (f) and (g), the Cabinet Secretary shall take into account the gender, regional and other diversities of the people of Kenya.

Section 28 of No. 14 of 2014 which it is proposed to amend—

Licence to practise.

(1) A person shall not practise as a counsellor or psychologist unless such person has complied with the requirements for continuing education and supervision, and has been issued with a valid practice license by the Board, in accordance with regulations made under this Act.

(2) The Board may issue to a counsellor or psychologist who has applied in the prescribed form, a license to practice on their own behalf or to be employed by a counsellor or psychologist.