

# NATIONAL ASSEMBLY

## OFFICIAL REPORT

Thursday, 25<sup>th</sup> October 2018

The House met at 2.30 p.m.

*[The Speaker (Hon. Justin Muturi) in the Chair]*

### PRAYERS

### PETITIONS

#### AMENDMENT OF THE CONSTITUTION TO INCLUDE 9<sup>TH</sup> MARCH AS A NATIONAL PEACE DAY

**Hon. Speaker:** Hon. Members, this is Public Petition No.123 of 2018.

Standing Order 225(2)(b) requires that the Speaker reports to the House any petition other than those presented through a Member. I, therefore, wish to convey to the House that my office has received a petition from Peter Mugo Mukua regarding amendment of the Constitution to include 9<sup>th</sup> March as a national peace day.

The petitioner is seeking that the House amends Article 9(3) of the Constitution so as to include 9<sup>th</sup> March as a public holiday to celebrate National Peace Day. The petitioner avers that the event witnessed on 9<sup>th</sup> March 2018 following the historic handshake between His Excellency the President, Hon. Uhuru Kenyatta and the former Prime Minister, the Right Hon. Raila Amollo Odinga, after the contested presidential elections in 2017 marked a renaissance in the country's history.

The petitioner further contends that, for decades, peace in Kenya had been elusive hence the recent handshake would be a gateway to a greater cohesion, peaceful co-existence, tranquillity and a sense of nationhood. Of great importance is the concerted effort by both Government and the Opposition towards achievement of the Big Four Agenda and realisation of the desired socio-economic and political development in the country.

It is against this premise that the petitioner prays that the National Assembly, through the relevant Departmental Committee, amends Article 9(3) of the Constitution to include National Peace Day as a national holiday to be observed on 9<sup>th</sup> March annually.

This Petition, therefore, stands committed to the Departmental Committee on Justice and Legal Affairs for consideration. The Committee is requested to consider the Petition and report its findings to the House and the petitioner in accordance with Standing Order 227 (2).

Hon. Members, before I allow any comments or clarifications, let me allow the other Petition to be presented by the Member for Kilifi North.

#### ENACTMENT OF LAW ON PRIVATE LAND HOLDING ACREAGE

**Hon. Owen Baya** (Kilifi North, ODM): Thank you very much, Hon. Speaker.

I, the undersigned, on behalf of We Hatua Yetu Community-Based Organisation representing the Kilifi North Community residents, draw the attention of the House to the following:

THAT, ancestors of the Mazrui land once ruled the port city of Mombasa after rebelling against the Sultan of Oman who laid claim to the coastal belt;

THAT, the Mazrui were dislodged from power in 1828 after Sultan Seyyid Said reclaimed power in Oman;

THAT, the Mazrui later on dispersed to Kilifi, acquired and occupied five blocks of land that is Block No.1, Certificate of Title 409; Block No. 2, Certificate of Title 408; Block No. 3, Certificate of Title 406; Block No. 4, Certificate of Title 407 and Block No. 5, Certificate of Title No. 414, which in total covered approximately 77,000 acres;

THAT, the said occupation deprived the indigenous community land for settlement;

THAT, the villages affected are Takaungu, KiribaWangwani, KibaraniMjibu, Mtondia and Mida in Kilifi North Constituency;

THAT, the Mazrui Land Trust Board was established by the Mazrui Trust Land Act and were the legal and registered trustees and administrators of the Mazrui land;

Therefore, your humble petitioners pray that the National Assembly, through the Departmental Committee on Lands;

- (i) investigates and inquires into all matters raised in the Petition pursuant to Standing Order No.216(5)(a) and makes the relevant recommendations towards ensuring that the locals are settled on this land;
- (ii) recommends speedy formulation of a legislation that prescribes minimum and maximum private land holding acreage; and
- (iii) makes any other order or direction that it deems fit in the circumstance of the matter.

And your petitioners will ever pray.

**Hon. Speaker:** Very well. I can see a few Members want to comment. I will give you two minutes each. Let us start with the Member for Nakuru Town East.

**Hon. David Gikaria** (Nakuru Town East, JP): Thank you, Hon. Speaker. I am contributing to the Petition on the National Peace Day. I am sorry I was not very attentive to get the name of the petitioner.

I come from an area that is frequently affected whenever there are elections. There is always some violence. I totally agree with the petitioner. If we base the date of the National Peace Day on the handshake issue, then other handshakes might in future also find their way into this country. I agree with the petitioner that this country requires a national peace day where people come together for purposes of national cohesion, unity, togetherness and peace. As *Mzee* Moi used to say: peace, love and unity. It is very important.

In Nakuru County, we appreciate the peace that has existed since the first handshake which was started by His Excellency the President and his Deputy, William Samoei Ruto, when they came together in 2012. Peace has prevailed in our region for quite a while. It is not a matter of who did the handshake, because if we go by the people who started the peace process, it was the President and his deputy. I totally agree with the petitioner that this country should not go back to that unfortunate period in our country when we experienced a lot of violence. Nakuru County, particularly, suffered a lot. That peace should prevail for our future generations.

**Hon. Speaker:** Let us have the Member for Kimilili. That is the Member for Kiminini. Fortunately, I know where the boundaries are. One is in Trans-Nzoia County and the other one is in Bungoma County.

**Hon. Didmus Barasa** (Kimilili, JP): Thank you, Hon. Speaker. I am the Member of Parliament of where he comes from. Thank you for giving me this opportunity.

Peace is a very important element of development in this country. I do not think we have acquired the necessary peace that we need for us to have a peace day as a country. Until we see the end of the killings that are happening in the North Eastern part of this country and some parts of Trans Mara, that is when we can have a peace day.

The handshake between the President and the former Prime Minister is part of the development that this country needs but does not warrant having a national peace day. I do not think it is necessary.

Hon. Speaker, you always give strict timelines in which Committees should listen and dispense with petitions. I am fully aware that there are petitions that have been pending for more than three months. The Chairpersons of Committees need to work round the clock to ensure that they meet the timelines that are required to dispense with those petitions.

**Hon. Speaker:** Hon. Barasa, you are at liberty to feel as you wish about the Petition. The more important aspect of what you just said is that Committees to which petitions have been referred have a maximum of 60 days to consider those petitions and submit a report. Remember, the report is merely submitted to the House as a formality. It is to be given to the petitioner or petitioners. If you have not submitted the report within 60 days, you run the risk of acting outside of the law. A report being tabled after the 60 days and any purported hearings or invitations to witnesses to appear with regard to petitions after the 60 days are over is outside of the law. It is *ultra vires* unless the House has been convinced to extend the time before the 60 days are over. Once the 60 days are over, anything else you are doing with regard to a petition is just for your personal entertainment.

If a petition has been lying with a Committee and it has not submitted a report within the 60 days, anything else it does is a waste of public resources. In fact, if any person is invited to appear before the Committee, I have given strict instructions that they should ignore those invitations unless the House, in exercise of its power, has extended the time for consideration of the petition. If you are given 60 days and they are over, please, do not waste any more public time and resources inviting people. They will not come! The Clerk has been accordingly directed not to sign any letters of invitation. He should check when the petition was referred to the Committee. If the Committee has not submitted a report, it is a waste of time. Just fold what you are doing and inform the petitioner that you were not able to finish what you were supposed to do. You should organise your workplans in such a way that within 60 days, you are able to present a report.

If for one reason or another you feel that you are unlikely to submit that report, you must come and convince the House that there are reasons or grounds enough to warrant extension of time. That is not just with regard to this Petition. I thank Hon. Barasa for raising that matter and reminding everybody that that is the law. Just look at the Standing Orders.

Even as I allow a few more comments, allow me to recognise the presence in the Speaker's Gallery of a delegation from the County Assembly of Baringo. The delegation is led by the Speaker of the County Assembly, Mr. David Kiplagat, Member of the County Assembly (MCA). I welcome them to observe the proceedings of the National Assembly this afternoon.

Further, allow me to also recognise the presence in the Public Gallery of pupils and students from the following institutions:

- (1) Kongoni Primary School from Lang'ata Constituency, Nairobi County;
- (2) Mbukiwa Sirata Academy from Samburu West Constituency in Samburu County;  
and
- (3) Kitie Primary School from Kathiani Constituency in Machakos County.

They too are welcome to observe the proceedings in the National Assembly this afternoon.

Let us have the Member for Kiminini who lost his chance to comment.

**Hon. (Dr.) Chris Wamalwa** (Kiminini, FORD-K): Thank you, Hon. Speaker for giving me this opportunity.

In line with Article 119 of the Constitution, everybody has a right to petition Parliament. The Petition that has just been presented, in case of any consideration, will be a constitutional amendment where we need the two-thirds majority. Having brought something similar last week, I know what it entails. National Peace Day is very important to this country. We salute the day we had that handshake because it changed a lot in this country. Some of us who suffered teargas in the streets salute that Petition. More importantly, we have a United Nations (UN) Peace Day. I wish that as we try to consider the peace day, it is in line with the UN one. It already exists.

Article 9 of the Constitution which talks of national holidays also states that Parliament may enact legislation prescribing other public holidays. Recently, out of the court ruling, we were able to celebrate Moi Day, which was not incorporated as per Article 9 of the Constitution. Maybe it is high time we amended the National Holidays Act for purposes of conformity so that in future, we do not have this confusion. We also appreciate Moi Day because it is a day dedicated to help the disadvantaged. My humble request to the Committees is that they move with speed and bring recommendations. If at all these proposals can be consolidated together with the amendments that have been brought to the Floor of the House, we can have a committee look at them and separate those that require referendum from those that require parliamentary initiative, so that we can move with speed.

I thank you.

**Hon. Speaker:** Member for Endebess.

**Hon. (Dr.) Robert Pukose** (Endebess, JP): Thank you, Hon. Speaker for allowing me to contribute to this. On the petition by Peter Mugo on the public holiday, when we who were in United Republican Party (URP) came together with those who were in the National Alliance (TNA) party to form Jubilee Party, the President and his deputy said never again should we go to war and lose lives because of political competition. I thank the Prime Minister for seeing that sense and coming up to have a handshake with the President and bring this country into harmony. We can see that we have focused on development and other initiatives.

The Petition by Hon. Baya is an issue of historical land injustice that the people of Kilifi and Coast are still suffering from as a result of the Mazrui and others. This did not just happen to the people at the Coast. In Trans-Nzoia, the Sabaots are the original inhabitants of Trans-Nzoia and up to today, many years after independence compensation for those who were chased away from their land has not been done. It was not done by the colonialists and even the neo-colonialists who came after independence.

The government then formed the Agricultural Development Corporation that was supposed to initially give people back their ancestral land.

**Hon. Speaker:** These comments are strictly for two minutes. Let us have the Hon. Member for Rarieda.

**Hon. (Dr.) Otiende Amollo** (Rarieda, ODM): Thank you, Hon. Speaker. I commend the petitioner for recognising that the handshake was timely. We, indeed, know that as a result of the handshake, the Right Hon. Raila Amollo Odinga is now the High Representative for Infrastructure Development in Africa.

Hon. Speaker, a distinction is to be created between a national day and a public holiday. It is evident as you commit that Petition to the Committee that it takes note that while the petitioner is talking about a national peace day requiring an amendment of Article 9, indeed you do not require to amend Article 9. Article 9(3) talks of three national days. However, the Public Holidays Act then prescribes other public holidays and they are 23 of them. I would suggest that in considering the Petition, consideration be made in terms of adding another public holiday to the Public Holidays Act, rather than the difficulty of amending the Constitution.

I commend Hon. Baya for the Petition he has brought on the Mazrui land issue. We know that we have had two attempts to address historical land injustices in terms of the Truth, Justice and Reconciliation Commission (TJRC) and the National Land Commission (NLC) but both have failed to do that. This is a good occasion to revisit that issue and the broader issue of historical land injustices at the Coast and elsewhere including the great island of Migingo.

Thank you, Hon. Speaker

**Hon. Speaker:** Very well, Hon. Members. In the interest of managing time, the two Petitions are therefore referred to the Committees to act in the manner that I have already directed.

Next Order.

## PAPERS LAID

**Hon. Aden Duale** (Garissa Township, JP): Hon. Speaker, I beg to lay the following Papers on the Table of the House:

The East African Community (EAC) Customs Regulations from the EAC as follows:

(i) Legal Notice No.57 of 2018 on approved measures on Import Duty Rates in the EAC Common External Tariff;

(ii) Legal Notice No.58 of 2018 on approved duty remission on raw materials and inputs;

(iii) Legal Notice No.59 of 2018 on stay of application of the conditions contained in Legal Notice EAC/39/2013 of 30<sup>th</sup> June 2013 on duty remission for motorcycle assembly for one year;

(iv) Legal Notice No.60 of 2018 on revocation of the conditions contained in Legal Notice No. EAC/32/2016 of 30<sup>th</sup> June, 2016 on Duty remission for sugar for industrial use;

(v) Legal Notice No.61 of 2018 on approved duty remission on raw materials and inputs for Uganda;

(vi) Legal Notice No.62 of 2018 on approved duty remission on raw materials and inputs for the manufacture of textile and footwear for Uganda;

(vii) Legal Notice No.63 of 2018 on approved duty remission on raw materials and inputs for Rwanda;

(viii) Legal Notice No.64 of 2018 on approved duty remission on raw materials and inputs for the manufacture of textile and footwear for Tanzania;

(ix) Legal Notice No.65 of 2018 on stay of application of EAC Common External Tariffs (CET) on raw materials and inputs for manufacture of textile and footwear for Rwanda;

(x) Legal Notice No.66 of 2018 on stay of application of EAC CET on telecommunication equipment in Rwanda;

(xi) Legal Notice No.67 of 2018 on approved duty remission on raw materials and inputs for Rwanda;

(xii) Legal Notice No. 68 of 2018 on Amendments to the Fifth Schedule of the EAC Customs Management Act, 2004;

(xiii) Legal Notice No.69 of 2018 on Corrigenda to EAC Gazette Vol.AT.1-8 Legal No.85 of 30<sup>th</sup> June, 2017;

(xiv) Legal Notice No. 70 of 2018 on Approved Kenya Manufacturers and quantities of duplex board and paper for manufacture of text and exercises books to be imported at a duty rate of 0% under duty remission scheme for twelve months;

(xv) Legal Notice No.71 of 2018 on approved Kenya manufacturers and quantities of raw materials for manufacture of solar panels to be imported at a duty rate of 0% under Duty Remission Scheme for twelve months;

(xvi) Legal Notice No.72 of 2018 on approved Kenya manufacturers and quantities of sugar for industrial use to be imported at a duty rate of 10% under Duty Remission Scheme for twelve months;

(xvii) Legal Notice No.73 of 2018 on approved Kenya manufacturers and quantities of glucose to be imported at duty rate of 0% under Duty Remission Scheme for twelve months;

(xviii) Legal Notice No.74 of 2018 on approved Kenya manufacturers and quantities of inputs for manufacture of leaf springs, bolts and nuts to be imported at a duty rate of 0% under Duty Remission Scheme for twelve months;

(xix) Legal Notice No.75 of 2018 on approved Kenya manufacturers and quantities of inputs for manufacture of matches to be imported at a duty rate of 0% under Duty Remission Scheme for twelve months;

(xx) Legal Notice No.76 of 2018 on approved Kenya manufacturers and quantities of raw materials for manufacture of goods for export to be imported at a duty rate of 0% under Duty Remission Scheme for twelve months;

(xxi) Legal Notice No.77 of 2018 on approved Kenya manufacturers and quantities of inputs for the manufacture of filters to be imported at a duty rate 0% under Duty Remission Scheme for twelve months; and,

(xxii) Legal Notice No.78 of 2018 on approved Kenya manufacturers and quantities of duplex board to be imported at a duty rate of 0% under Duty Remission Scheme for twelve months.

The Reports of the Auditor-General and Financial Statements in respect of the following institutions for the year ended 30<sup>th</sup> June, 2017 and the certificates therein:

The Reports of the Auditor-General and Financial Statements in respect of the following institutions for the year ended 30<sup>th</sup> June 2017 and the certificates therein:

- a) National Transport and Safety Authority.
- b) Veterinary Service Department Fund.

- c) The Office of the Attorney General and Department of Justice; and
- d) Kenya Railways Corporation.

The Reports of the Auditor-General and Financial Statements in respect of the following constituencies for the year ended 30<sup>th</sup> June 2017 and the certificates therein:

- a) Kaiti;
- b) Masinga;
- c) Kasarani;
- d) Makueni;
- e) Westlands; and
- f) Kibra.

Thank you, Hon. Speaker.

**Hon. Speaker:** The 22 legal notices being in the form of subsidiary legislation are accordingly referred to the Committee on Delegated Legislation to act on them appropriately.

Next is the Vice-Chair of the Select Committee on National Government Constituencies Development Fund (NG-CDF).

**Hon. Omar Mohamed** (Mandera East, EFP): Hon. Speaker, I beg to lay the following Papers on the Table of the House:

The Reports of the Select Committee on National Government Constituencies Development Fund on:

- (i) Constituency Digital Innovation Hubs during a joint retreat with the NG-CDF Board and Ministry of Information, Communication and Technology held at Swahili Beach, Kwale County, from 25<sup>th</sup> to 28<sup>th</sup> May 2018.
- (ii) The Scandinavian Engagement with Green Energy and Sustainable Regional Development held in Copenhagen, Denmark, from 12<sup>th</sup> to 18<sup>th</sup> August 2018.

**Hon. Speaker:** The Chairperson, Select Committee on Justice and Legal Affairs.

**Hon. William Cheptumo** (Baringo North, JP): Hon. Speaker, I beg to lay the following Papers on the Table of the House:

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

- (i) Petition by Mr. Geoffrey Otieno Ogola to amend the Constitution of Kenya to establish an elected Jury to end the exercise of sovereign power of the people by the Judicial Officers in contravention of Article 1(2) of the Constitution.
- (ii) Petition by Dr. Gibson Machanga Mareka to amend Articles 81, 138, 144, 145 and 148 of the Constitution of Kenya.

Thank you, Hon. Speaker.

**Hon. Speaker:** The Vice-Chair of NG-CDF, you had some other issue? Hon. Hassan which other Report?

**Hon. Omar Mohamed** (Mandera East, EFP): I have a Statement.

**Hon. Speaker:** If you look at your Order Paper we are on Order No.5 which is Papers Laid. Statements will be on Order No.7.

Chairperson Departmental Committee on Communication, Information and Innovation, Hon. Kisang.

**Hon. William Kisang** (Marakwet West, JP): Hon. Speaker, I beg to lay the following Papers on the Table of the House:

The Reports of the Departmental Committee on Communication, Information and Innovation on:

- (i) The *Google* Internet Academy held in Wolmar, Mauritius on 7<sup>th</sup> to 9<sup>th</sup> March 2018.
- (ii) The 2<sup>nd</sup> Artificial Intelligence for Good Global Summit held at ITU Headquarters in Geneva, Switzerland on 15<sup>th</sup> to 17<sup>th</sup> May 2018.
- (iii) The National Broadcasters Show held in Las Vegas, USA, Nevada on 7<sup>th</sup> to 12<sup>th</sup> April 2018.
- (iv) The World Summit on the Information Society (WSIS) Forum held in Geneva, Switzerland on 19<sup>th</sup> to 23<sup>rd</sup> March 2018.
- (v) Global System Mobile Association World Congress held in Barcelona, Spain, on 26<sup>th</sup> February to 1<sup>st</sup> March 2018.

Thank you, Hon. Speaker.

**Hon. Speaker:** Hon. Members, this is for general information. Please learn to press the appropriate buttons. There are Members who sometimes wish to make interventions but since they have placed requests to contribute on the general debate, they are unable to organise the request in such a way that they can make interventions without affecting their right and priority in speaking.

For those facing those difficulties, I kindly request you to sit next to the Member for Endebess. He will show you how it is done. He never loses his chance to contribute to general debate while at the same time making use of his chance to make interventions. Just in case you are facing problems or maybe you have fingers which have problems when dealing with the machine, see him. Hon. (Dr.) Nyikal has said the gentleman is a surgeon.

Next Order! Proceed Hon. Zadoc Ogutu Abel.

## NOTICE OF MOTION

### EXTENSION OF RECRUITMENT PERIOD FOR NCIC COMMISSIONERS

**Hon. (Prof.) Zadoc Ogutu** (Bomachoge Borabu, Independent): Hon. Speaker, I beg to give notice of the following Motion:

THAT, notwithstanding the provisions of Section 3 of the First Schedule of the National Cohesion and Integration Act, 2008, and pursuant to the provisions of Section 13 of the Public Appointments (Parliamentary Approval) Act, 2011, this House resolves to extend the period for recruitment of Commissioners to the National Cohesion and Integration Commission by a further period of 14 days from 2<sup>nd</sup> November, 2018.

Hon. Speaker, I bring this concern from the Committee on National Cohesion...

**Hon. Speaker:** You have given notice of Motion and so there is no need to explain. Hon. Members, the advice I gave about those Members who sit to the right of Mr. Speaker should apply with equal measure to those who sit to the left of Hon. Speaker. If they could approach the Member for Kiminini, he will also show you how he does it without difficulties or the Hon. Member for Makueni. They do not lose their chance to speak on account of wanting to make interventions. So you do not all start criss-crossing, each of you have experts on both sides of the isle.

Next Order!



## QUESTIONS

**Hon. Speaker:** Hon. Members, we begin with the Question by the Member for Nakuru Town East.

*Question No.053/2018*

DELAYED PAYMENT OF RETIREMENT AND GRATUITY BENEFITS  
TO MR. DAVID GICHERU KINUTHIA

**Hon. David Gikaria** (Nakuru Town East, JP): Hon. Speaker, I beg to ask the Cabinet Secretary for Labour and Social Protection the following:

Could the Cabinet Secretary explain why Mr. David Gicheru Kinuthia, a former employee of the Ministry of Agriculture, has not been paid his retirement and gratuity benefits to date since his retirement in 1995?

**Hon. Speaker:** The Question is referred to the Departmental Committee on Labour and Social Welfare to prioritise as appropriate.  
Member for Kwale County.

*Question No.057/2018*

STEPS TO RESOLVE LAND ISSUES IN KWALE

**Hon. (Ms.) Zuleikha Hassan** (Kwale CWR, ODM): Hon. Speaker, I beg to ask the Cabinet Secretary for Lands the following:

a) Why are buyers of land in Kwale County given title deeds to ancestral land while indigenous owners who have been living on it for generations are denied the same and are subjected to evictions?

b) What steps is the Ministry taking to resolve land issues in Kwale County?

**Hon. Speaker:** The Question is referred to the Departmental Committee on Lands to prioritise as appropriate.

Next Question is by the Member for Mandera East.

*Question No. 067/2018*

CONSTRUCTION OF THE BORDER WALL BETWEEN KENYA AND SOMALIA

**Hon. Omar Mohamed** (Mandera East, EFP): Hon. Speaker, I would like to ask the Cabinet Secretary for Defence the following Question:

- a) How many people or households have been directly affected by ongoing construction of the border wall between Kenya and Somalia, and will they be compensated?
- b) What was the initial design of the said border wall?
- c) To what extent will the border wall deter militants from entering into Kenya?
- d) Who was awarded the contract for the border wall and what challenges has the project faced which may have resulted in delays?
- e) What is the cost implication of the construction of the border wall to the taxpayer?

**Hon. Speaker:** The Departmental Committee on Defence and Foreign Relations to prioritise as appropriate. The next Question is by the Member for Bomet Central, Hon. Tonui.

*Question No. 079/2018*

TENDER FOR CONSTRUCTION OF BOMET UNIVERSITY COLLEGE

**Hon. Ronald Tonui** (Bomet Central, JP): Hon. Speaker, I wish to ask the Cabinet Secretary for Education the following Question:

- a) Which firm was awarded the tender for the construction of the library, hostels, tuition and administration block projects for Bomet University College?
- b) Provide a list of the other bidders and their quotations at the tendering process.
- c) Confirm whether the tender awarded was for joint construction of Bomet University College and Mama Ngina University in Kiambu County.
- d) Why was Prof. Ayiro appointed as the Vice Chancellor in an acting capacity in total disregard of the recommendations of the University Council?
- e) What is the role of the Vice Chancellor in the award of the said tender?
- f) Confirm whether the Public Procurement Oversight Authority was involved in the award of the tender.
- g) Provide details on whether the contractor has been paid for works done and state the amount paid.

**Hon. Speaker:** The Question is referred to the Departmental Committee on Education and Research to act as appropriate. Next Question is by the Member for Kwanza Constituency.

*Question No. 104/2018*

COMPENSATION TO FAMILIES OF TEACHERS WHO LOST  
THEIR LIVES IN NORTH EASTERN COUNTIES

**Hon. Ferdinand Wanyonyi** (Kwanza, FORD-K): Hon. Speaker, I would like to ask the Cabinet Secretary for Education the following Question:

- a) Could the Cabinet Secretary provide a list of all teachers who lost their lives in North Eastern counties in the last 5 years?
- b) What compensation has been provided to families of the said teachers?

**Hon. Speaker:** The Question is similarly referred to the Departmental Committee on Education and Research. Next Question is by the Member for Igembe Central.

*Question No. 107/2018*

NON-GAZETTEMET OF *MIRAA* TASK FORCE REPORT IMPLEMENTATION COMMITTEE

**Hon. Kubai Iringo** (Igembe Central, JP): Hon. Speaker, I would like to ask the Cabinet Secretary for Agriculture, Livestock and Fisheries the following Question:

- a) Why was the *Miraa* Task Force Report Implementation Committee not gazetted?
- b) How have funds allocated to support *miraa* farming in the year 2017/2018 been utilised and how much has been set aside in the Financial Year 2018/2019 for the same purpose?

- c) What activities have been undertaken by the Implementation Committee on *miraa* and how much has been utilised for the purpose?
- d) What measures has the Ministry put in place to ensure cultivation of *miraa* and other related programmes are sustained?

**Hon. Speaker:** The Question is referred to the Departmental Committee on Agriculture and Livestock to prioritise for the Cabinet Secretary to appear and respond. The next Question is by the Member for Tharaka Constituency.

*Question No. 109/2018*

MERU NATIONAL PARK USED AS A HIDEOUT BY LIVESTOCK BANDITS AND RUSTLERS

**Hon. George Murugara** (Tharaka, DP): Hon. Speaker, I would like to ask the Cabinet Secretary for Tourism and Wildlife the following Question:

- a) Is the Cabinet Secretary aware that livestock bandits and rustlers have been given free access and hideout in Meru National Park with the sole aim of staging frequent and uncontrolled livestock expeditions into Tharaka Constituency?
- b) Why are livestock stolen and driven through Meru National Park never traced or recovered despite the park being a KWS controlled zone?
- c) What action is the Cabinet Secretary taking to ensure that the residents who lost their livestock, were impoverished and suffered damage are compensated?
- d) What measures has the Ministry put in place to ensure that Meru National Park is not used as hideout by livestock bandits and rustlers?

**Hon. Speaker:** The Question is referred to the Departmental Committee on Environment and Natural Resources to prioritise and know whether livestock bandits are being allowed to roam about and steal livestock. The next Question is by the Member for Kuria East Constituency, Hon. Marwa Kitayama.

*Question No. 112/2018*

COMPENSATION TO VICTIMS OF SNAKE BITE IN KURIA EAST CONSTITUENCY

**Hon. Marwa Kitayama** (Kuria East, JP): Hon. Speaker, I would like to ask the Cabinet Secretary for Tourism and Wildlife the following Question:

- a) When will the family of Mr. John Merengo of Kuria East Constituency be compensated following the death of their daughter through a snake bite?
- b) Provide a list of all victims of snake bites from Kuria East Constituency and state when they are expected to be compensated.

**Hon. Speaker:** The Question is referred to the Departmental Committee on Environment and Natural Resources to prioritise for the Cabinet Secretary to appear.

*Question No. 113/2018*

INVESTIGATION INTO CAUSE OF FIRE IN SCHOOLS

**Hon. Speaker:** The Question by the Member for North Mugirango Constituency, Hon. Joash Nyamache Nyamoko is deferred at his request. He is not present but he has requested for deferment.

*(Question deferred)*

We move to the next Question by the Member for Starehe Constituency.

*Question No. 124/2018*

#### MEASURES UNDERTAKEN TO CONTAIN THE INFLUX OF FOREIGNERS

**Hon. Charles Njagua** (Starehe, JP): Hon. Speaker, I would like to ask the Cabinet Secretary for Interior and Coordination of National Government the following Question:

- a) Could the Cabinet Secretary explain the measures undertaken by the Ministry to contain the increased influx of foreigners?
- b) What steps has the Ministry undertaken to ensure the said foreigners are not licensed to take up jobs that are meant for locals?

**Hon. Speaker:** The Question is referred to the Departmental Committee on Administration and National Security to prioritise. Hon. Members, this is Question Time and the Question having been approved, you can only appear before that Committee to go and raise any issues you may have but for now the Question is referred to the Committee. You can also join him on that day. Let us hear the Member for Embakasi Central.

*Question No. 126/2018*

#### INSECURITY IN EMBAKASI CENTRAL CONSTITUENCY

**Hon. Benjamin Mwangi** (Embakasi Central, JP): Hon. Speaker, I would like to ask the Cabinet Secretary for Interior and Coordination of National Government the following Question:

- a) Could the Cabinet Secretary state the cause of the increased insecurity in Kayole, Embakasi Central Constituency?
- b) What action has the Ministry taken on police officers who collaborate with criminal gangs and drug peddlers at the expense of safeguarding lives of innocent residents?
- c) Is the Ministry conducting security assessments, such as performance appraisals and security performance assessment tests in Kayole?
- d) Why are police officers conducting random arrests of innocent citizens who have to secure their release by giving out money without being taken to court?
- e) What challenges, if any, are experienced by the security forces in maintaining security for residents of Embakasi Central Constituency?
- f) When will security forces free Kayole from illegal criminal gangs, and assure residents and Kenyans at large that it is a secure place to work and live in?

**Hon. Speaker:** The Question is similarly referred to the Departmental Committee on Administration and National Security to prioritise for the Cabinet Secretary to appear before the Committee.

Hon. Members, the next segment is for Statements. We have a Statement by the Leader of the Majority Party.

## STATEMENTS

BUSINESS FOR THE WEEK COMMENCING 6<sup>TH</sup> NOVEMBER TO 8<sup>TH</sup> NOVEMBER 2018

**Hon Aden Duale** (Garissa Township, JP): Hon. Speaker, pursuant to the provisions of Standing Order No.44(2)(a), I rise to give a Statement on behalf of the House Business Committee.

The Committee met on Tuesday this week at the rise of the House. I wish to remind Members that the House is scheduled to proceed for a short recess commencing tomorrow in accordance with the calendar of the House. As a result of this, the House Business Committee has not scheduled any business for next week.

Upon resumption from the short recess, on 6<sup>th</sup> November 2018, the following Bills will be prioritised for Second Reading:

1. The Parliamentary Service Bill, No.6 of 2018.
2. The County Government (Amendment) Bill, Senate Bill No.11 of 2017.
3. The Kenya Accreditation Service Bill No.17 of 2018.
4. The Sacco Societies (Amendment) Bill, 2018.
5. The County Government (Amendment) Bill (No.2) Senate Bill No.7 of 2017.
6. The National Flags Emblems and Names (Amendment) Bill, Senate Bill No.8 of 2017.

We will consider in the Committee of the whole House, the Urban Areas and Cities (Amendment) Bill, Senate Bill No.4; the Statute Law (Miscellaneous Amendments) Bill No.12 of 2018. I urge Chairpersons of all Departmental Committees to expedite consideration of the Bills and table any pending reports when we resume.

In addition, I encourage all Members with amendments to those Bills to submit them to the Office of the Clerk for consideration before the Bills are scheduled for the Committee of the whole House.

In accordance to the provisions of Standing Order No.42(a)(5), I wish to convey that having consulted the Chairpersons of the Departmental Committee on Education and Research; Departmental Committee on Environment and Natural Resources; Departmental Committee on Energy and that of Sports, Culture and Arts the following Questions are scheduled for reply by specific Cabinet Secretaries:

The Cabinet Secretary for Education will appear before the Departmental Committee on Education and Research on Tuesday, 11<sup>th</sup> November 2018 to answer Questions No.009/2018 from Hon. Peter Kaluma; Question No. 022/2018 from Hon. Gideon Koske; Question No. 030/2018 from Hon. Omboko Milemba; Question No.048/ 2018 from Hon. Benard Shinali; and, Question No.051/2018 from Hon. Jeremiah Lomorukai.

The Cabinet Secretary for Water and Sanitation will appear before the Departmental Committee on Environment and Natural Resources on Tuesday, 13<sup>th</sup> November 2018 to answer Question No.073/ 2018 from Hon. Kipruto Moi.

The Cabinet Secretary for Petroleum and Mining will appear before the Departmental Committee on Energy on Tuesday, 6<sup>th</sup> November 2018 to answer Question No.049/2018 from Hon. Bernard Shinali.

Cabinet Secretary for Sports, Culture and Arts will appear before the Departmental Committee on Sports, Culture and Tourism on Thursday, 1<sup>st</sup> November 2018 to answer Question No.04/2018 from Hon. Dennitah Ghati.

Finally, the House Business Committee will reconvene on 6<sup>th</sup> November 2018 at the rise of the House to consider business for the coming week.

Thank you, Hon. Speaker.

**Hon. Speaker:** I want to allow the Whip of the Minority Party to make his Statement. This is under Standing Order No.44(2)(c).

#### COMING TO FORCE OF SECTION 65 OF THE FINANCE ACT

**Hon. Junet Nuh** (Suna East, ODM): Hon. Speaker, pursuant to Standing Order No.44(2)(c), I wish to request for a Statement from the Chairperson of the Departmental Committee on Finance and National Planning and the Chairperson of the Committee on Delegated Legislation regarding coming into force of Section 65 of the Finance Act, 2018.

As you are aware, on 30<sup>th</sup> August 2018 this House passed the Finance Bill, 2018. Thereafter, the President returned the Bill to this House pursuant to Article 115 of the Constitution with amendments on a few clauses, facts which are in the knowledge of all of us.

Subsequently, this House passed the Bill in light of the President's reservations on 20<sup>th</sup> September 2018 into law and was thereafter assented to by the President. One of the key provisions of the Finance Act, 2018 is Section 65. It provides that the Central Bank shall provide, in regulations, conditions on deposit or withdrawals by customers in banks and financial institutions. As it is presently, withdrawals and deposits from banks are governed by the Central Bank in circulars stipulating conditions for making deposits and withdrawals. This includes requirements for documentation and the quantum of deposits and withdrawals a customer can make from a bank among other a million and one conditions.

This provision was included in the Finance Act by the Departmental Committee on Finance and National Planning, following public participation and outcry by Kenyans who raised issues with unclear stringent rules that apply in the banking sector, deterring Kenyans from engaging in public transaction.

I agree with Kenyans that up to now no one can answer questions, including how the Central Bank came up with the guidelines, where they are made, whether in golf courses and wherever they were agreed upon. The contents of the guidelines are subject to speculation and, worse still, there is no impact assessment statement that has ever been done to assess the impact of the guidelines on the economy. This has been adverse in chocking liquidity and money circulation and flow into the economy. Where liquidity and money circulation are not present in an economy, stunted economic growth is the obvious result.

Hon. Speaker, it is also similar to asking you how much you think I have in the pockets of my trouser. It is impossible for you to know. Unless you sneak through the air into my pocket, you will not know. I have not seen you putting on some goggles that can enable you see inside my pocket. Consequently, when customers shy away from banking, the Central Bank cannot tell how much money is circulating in the economy.

Many Kenyans shy away from withdrawing or depositing money due to the strangling conditions. Indeed, this has seen shylocks and mobile loan enterprises rise with many Kenyans preferring to bank with them despite the exorbitant interest rates. This has made the *bora uhai* phrase gain traction among desperate Kenyans seeking to access banking services. Better still,

the joke has been that if you break into many houses in our villages, you do not need to hover around thinking of what to steal. Just go straight to the bed and check below the mattress and pillows and you will find a lot of money. Do not go to the kitchen or near the cowshed, just go straight to the pillow and mattress. For the rich folks, the sale of safes for keeping money has risen as people prefer keeping their money in them.

I am not by any chance saying that regulating the banking service is wrong. In any case, banks and financial institutions in the European Union (EU) are the healthiest and most stable. They regulate banking services such as withdrawals and deposits. What is wrong with our financial sector is the manner in which the Central Bank has regulated the same through unclear and vague conditions in a form of guidelines and circulars.

The last time I heard about circulars was when they used to be given to chiefs to harass Kenyans. To imagine that the Central Bank of Kenya prefers the use of circulars to regulate banking transactions is shocking. This state of affairs is what informs Section 65 of the Finance Act, 2018. This provision seeks to maintain the regulation of withdrawal and deposits through properly defined regulations.

In this era where money laundering and the flow of illicit money through economic crimes has been a concern for most countries worldwide, the need for regulation cannot be overstated. The regulations will however be different from the guidelines; they will be thoroughly scrutinised, analysed and examined using considerations including impact assessment outlined in the Statutory Instruments Act, 2013 by the Committee on Delegated Legislation. There will be public participation and scrutiny of how regulations comply with other laws. I can go on and on, on the importance of Section 65 of the Finance Act but permit me to note that the section has to be implemented for us to kick out vague guidelines on banking transactions.

As I conclude, just to restate, Section 65(1) of the Finance Act provides that the CBK shall prescribe in regulations conditions on deposits or withdrawals by customers in banks and financial institutions. Further, Section 65(2) of the Finance Act provides that the CBK shall within 30 days of coming into force of this Act prescribe regulations setting out conditions for deposits and withdrawals by customers in banks and financial institutions in accordance with Statutory Instruments Act.

Section 65 came into force on 1<sup>st</sup> October 2018 and 30 days expire on 31<sup>st</sup> October 2018, which is next week when we will be on recess. This is, therefore, to request for a statement from the Chairperson of the Departmental Committee on Finance and National Planning and the Chairperson of the Committee on Delegated Legislation on when the regulations will be brought to the National Assembly for scrutiny in accordance with Statutory Instruments Act. The days for CBK to comply are nearly over and so we move first with this in mind.

To conclude, the Constitution is very clear; no person or body other than Parliament has the power to make provisions having the force of law in Kenya except under authority conferred by this Constitution or by legislation. We have not given these powers to the CBK to do legislation on our behalf. We all belong to our religious sects. Some are Muslims, Christians while some are Legio Maria – in my place they are called *Roho Maler* and *Roho Mowar*. You can also be an Opus Dei where you live below Kshs100 a day. To you, a million is like a billion shillings. Let us not bring those issues into banking regulations; let us have regulations that have been scrutinised by Parliament.

With those few remarks, I request the Chairpersons of the two Committees to give a response urgently with their consideration.

Thank you.

**Hon. Speaker:** No. Standing Order No.44(2)(c) says that a Member, with leave of the Speaker, can stand and request for a statement and the Speaker shall appoint without debate the date on which the Chairperson of the Committee to which the statement is directed is to come and make the statement. Obviously, we should thank our Departmental Committee on Finance and National Planning for coming up with provisions in Section 65 because there is room for the CBK and authority which is contemplated under Article 94(5) of the Constitution as read out by Hon. Junet to make those regulations. However, the Statement cannot be given by the Chairperson of the Committee on Delegated Legislation because no such regulations have come up to the Committee. So, this statement should be responded to by the Chairperson who I can see has been listening very attentively; that is the Chairperson Finance and Planning, Hon. Joseph Limo, on Thursday November 8<sup>th</sup> 2018 at 2:30 p.m.

What Hon. Junet has said is true; that section 65 requires that regulation should be promulgated within 30 days period which was given in the law. So, Chairperson Departmental Committee on Finance and National Planning, start preparing to deal with your client. Find out how he is going about implementing Section 65 of the Finance Act which already is the law now. It is not the Chairperson on Delegated Legislation but the Chairperson Departmental Committee on Finance and National Planning who will respond.

The next statement is by the Chairperson Budget and Appropriations Committee.

STATUS OF LEGISLATIVE PROPOSALS  
BEFORE THE BUDGET AND APPROPRIATIONS COMMITTEE

**Hon. Kimani Ichung'wah** (Kikuyu, JP): Hon. Speaker, let me begin by stating that I am making this Statement on behalf of the Budget and Appropriations Committee. There have been various concerns by Members of the House regarding legislative proposals that Members have submitted to your office and which are then referred to our Committee. We have been confronted by many Members of Parliament asking the status of these legislative proposals. Therefore, this is out of our own volition to apprise the House on the status of these many legislative proposals.

I will also table after I finish the Statement, the list of all the 48 legislative proposals that we have received since the inception of the Committee and their status to date. Article 114 of the Constitution provides a clear procedure on how legislative proposals are to be processed. In addition, the Standing Orders also provide guidance on how Bills are to be processed. Hon. Members are aware that only legislative proposals that have been identified to have some financial implications are referred to the Budget and Appropriations Committee in accordance with Article 114(2) of the Constitution, Standing Order 114(3) of the National Assembly and the Public Finance Management Act of 2012.

Since January 2018 when Budget and Appropriations Committee came into operation, 48 legislative proposals have been submitted to the Budget and Appropriations Committee. These proposals relate to health, finance, agriculture and ICT sectors. The Budget and Appropriations Committee, when considering these proposals, invites the sponsor of the Bill to appear before the Committee and justify the importance of the legislative proposal given the fact that it may lead to a charge to the people of Kenya.

Resources are, indeed, scarce and any legislative proposal that is likely to increase the resource gap or tax the citizenry has great need for keener scrutiny. As required, the Committee also seeks the opinion of the National Treasury so that an approval of such legislative proposal does not negatively impact the resource framework in the medium term. It is on account of the



financial implications of some of the legislative proposals that the Committee recommends to the Speaker to deny the approval of the proposal not unless there are amendments to make it less costly.

Out of the 48 proposals committed to the Committee, 28 legislative proposals have been completed and decision communicated to the Speaker. Seven are awaiting response from the National Treasury who are required to communicate their opinion at least a minimum of 14 days. It is important to note that the Constitution and the Standing Orders do not state a timeline but we have indicated to the National Treasury that it would rather have this put at 14 days. As soon as the 14 days expire, the Committee will go ahead and advise the Speaker on its decision. One legislative proposal is delayed on the request of the Member. That happens to be myself. The remaining 13 legislative proposals are still in the process of being reviewed by the Committee.

Hon. Members, I would like to draw attention to the work plan of the Budget and Appropriations Committee which is very intense compared to other committees. The Budget and Appropriations Committee contributes as much as 70 per cent of the legislative agenda of the House. In February and March 2018, the Committee was considering the Budget Policy Statement, the Division of Revenue Bill and the County Allocation of Revenue Bill that were delivered to the House as per the timeliness without delay.

In May and June 2018, we considered the Budget Estimates for the 2018/2019 Financial Year and passed the Appropriation Bill 2018. In September 2018, we were engaged in the review of the First Supplementary Budget for the 2018/2019 Financial Year. The Committee always creates time to consider Bills. The Budget takes first priority. On that note, I would like to request Hon. Members to note that we have, at least, on three occasions invited Members who have failed to appear before the Committee. We have made efforts to give them a second and third opportunity to do so.

The Budget and Appropriations Committee is one of the Committees in the National Assembly whose plate is full. I hereby table the status of all Bills submitted to the Committee.

*(Hon. Kimani Ichung'wah laid the document on the Table)*

Lastly, it is important to notify Members that many of the questions we are confronted with are about the status of these Bills. I am tabling this Report for each Member to know the status of their Bill. We conclude with Bills but that is not the end of the process. I think the Hon. Members were taken through the flow of Bills during the induction. Some of the many legislative proposals are still pending with Departmental Committees, the BAC having finalised with them. It is important for Members to note that when the Speaker refers these Bills to the Parliamentary Budget Office, they have an opportunity to scrutinise and determine whether they are Money Bills or not, after which they relay that information to the Office of the Speaker before it is recommitted to the Parliamentary Budget Office for analysis and presentation. As we proceed for the short recess, we have finalised scrutiny of all the proposals that have been analysed and submitted to the Committee by the Parliamentary Budget Office.

I give the House assurance that neither the Chair nor the BAC sits on any Bill as we are often accused. We have expedited analyses of all Bill and I encourage Members to continue appearing before the Committee as and when they are invited. It becomes very inconveniencing when we invite a Member and he is not available. We have to reschedule a meeting as a consequence.

Hon. Speaker, I will table these Reports. As I said, it was on the volition of the Committee to apprise the House on what has been done. We table the Report for Member to see the status of their Bills.

**Hon. Speaker:** Hon. Members, I think the issue raised by the Chair of the BAC about Members who write letters is valid. To write letters is perfect. Members write letters to me indicating that they have intentions of initiating certain legislative proposals. I have noticed a trend whereby the moment I write “approved, Clerk of National Assembly, please assist the Member”, I see it on social media and then debate follows. I do not want to mention any Member. This week, a Member has been debating such letter. In the minds of Kenyans, there is a Bill. Even today, I have been inundated with questions by members of the public, “Where is the Bill by Hon. So-and-so? It is so popular with Kenyans.” I asked: “Which one?” Hon. Members, please, follow what the Chair of BAC has said. I know many of you think that the BAC may be sitting on your Bills. The Committee has to follow due process and invite you, as the person who is initiating the legislative proposal, to appear before them. That is after it has been analysed by the Parliamentary Budget Office to determine whether it is a Money Bill or not and such other considerations, as required by the Constitution.

I know that many of you could be businesspeople or you could be desirous of having Kenyan businesspeople assisted, but look at the two Statute Law (Miscellaneous Amendments) Bills. They have proposals to amend some of the laws that you are busy discussing in the radio stations and television stations and causing a lot of unnecessary excitement among Kenyans. In the Statute Law (Miscellaneous Amendments) Bill published on 10<sup>th</sup> April, there is a proposal to amend the Public Procurement and Asset Disposal Act, 2015. So, even though you write a letter and get excited about it, and want to excite the entire constituency and the church where you go so that everybody is busy saying: “This is the greatest law proposal that has ever been sent to Parliament”, let it be known that it is just a letter that the Member has written. You may not even appear before the Committee. More importantly, read the Statute Law (Miscellaneous Amendments) Bill and propose your amendments there because it is already there. So, please try to follow the procedure.

Of course, I know that some of those debates are motivated by the desire to earn *bonga* points, but you cause unnecessary pressure on some of us. We are asked: “How far has that law gone? Have you taken it to the President for assent?” We go through this despite that it was only a letter which was written. I cannot take a letter to the President to assent to. But you will have excited everybody in the country and they are very happy. As you know, they will be asking you how far the Bill is within one week. Since it was only a letter, when they come to me writing or asking, I will just write to them: “Tell the Member that it was only a letter and it was just meant to get your attention.” Of course, it is not a very bad thing to get attention. I mean, why are you elected? It is because a lot of attention is paid to you. But, please, let us just try to moderate a bit. There is too much of debate on television stations as opposed to the Floor of the House. You are only debating letters or notices of intention.

Member for Samburu North.

DELAYED DISBURSEMENT OF NATIONAL GOVERNMENT  
CONSTITUENCIES DEVELOPMENT FUND

**Hon. Alois Lentoimaga** (Samburu North, JP): Hon. Speaker, pursuant to Standing Order No. 44(2)(c), I wish to request for a Statement from the Chairperson of the Select Committee on

the National Government Constituencies Development Fund (NG-CDF) regarding delays in disbursement of the NG-CDF. We are in the Second Quarter of Financial Year 2018/2019 and the Government has not released funds to constituencies yet there are ongoing projects with outstanding payments that need to be cleared.

Furthermore, there are balances of funds which were not disbursed in the last Financial Year 2017/2018 and they need to be disbursed now.

Hon. Speaker, the Chair is aware that most constituencies have allocated bursary funds to college and university students to enable them graduate while others are set to join universities and other learning institutions. As it stands, most of these students are out of school due to fee arrears. In addition, the long recess is approaching. A number of activities, including sports meant for youth engagement, may be affected by delays in Exchequer Issues. More importantly is that projects are done by contracted firms. If payments are not made, we will end up accumulating huge bills. It is against this background that I seek the Statement from the Chair of the Committee on the NG-CDF on the following: Reasons for inordinate delays in the release of the funds and when the said funds will be released to address the aforementioned problems.

Thank you, Hon. Speaker.

**Hon. Speaker:** Finally, it was deliberate that I organise business that way.

The Vice Chair, the NG-CDF.

#### DISBURSEMENT OF FUNDS TO CONSTITUENCIES

**Hon. Omar Mohammed** (Mandera East, DFP): Hon. Speaker, I wish to make a Statement to the House on the allocation of funds for 2018/2019 Financial Year.

The NG-CDF is established under NG-CDF Act 2015 Act as amended in 2016 with an objective of addressing poverty and regional development imbalances by dedicating a minimum of 2.5 per cent of the national Government share of annual revenue towards community driven development projects in every constituency identified and implemented at the grassroots level.

Further, Section 34 provides for the basis for budget ceilings. Specifically, the Act states that the budget ceiling for each constituency shall be the amount specified in Section 4(i) divided equally among all constituencies subject to the provisions of Section 8(1) and Section 23 (1). Section 8 states that a portion of the fund equivalent to five per cent herein referred to as emergency reserve shall remain unallocated and shall be availed for emergencies that may occur within the constituency.

Section 23(1) provides that the expenditure for running the board and related purposes shall be set aside at the beginning of the financial year and not more than five per cent of the total allocation to the fund in the financial year may be used for this purpose. The annual budget shall be approved by the Cabinet Secretary with the concurrence of the National Assembly committee.

Based on the above provisions of the law, the board's provision of the proposed budget ceiling for 2018/2019 Financial year is as follows:

1. The total allocation is Kshs33, 286,162,000.
2. Five per cent allocation to the NG-CDF Board is Kshs1,664,308,100.
3. Five per cent for emergency reserve is Kshs1,664,308,100
4. The amount to be shared equally among constituencies is Kshs29,957,545,000
5. The total allocation to constituencies is Kshs31,621,853,900.

Therefore, the proposed allocation per constituency is as follows:

- (i) Equal share for each constituency is Kshs29,957,545,800 divided by 290 constituencies which will be Kshs103,301, 882.07 per constituency.
- (ii) Emergency reserve for each constituency will be Kshs1, 664, 309,100 divided by 290 constituencies that will translate to Kshs5,708, 038, 933.45 per constituency.

In view of the foregoing, I wish to inform this honourable House that the allocation for 2018/2019 Financial Year as per the supplementary estimates in the year ending 30<sup>th</sup> June 2019 is Kshs33, 286,162,000. This means that each constituency will receive Kshs109,040, 876.

I thank you.

**Hon. Speaker:** Now there was a specific request for a statement by the Member for Samburu North. Hon. Hassan Omar, I do not know whether you followed the question raised by Hon. Lentoimaga.

**Hon. Omar Mohammed** (Mandera East, DFP): Hon. Speaker, I followed the question and after tabling this Statement, the board will circulate the circulars for proposed development for each constituency latest, early next week. To answer the question by the Hon. Member, the earlier you submit your proposals, the earlier the funds will be disbursed to the constituencies.

Hon. Members, let me take this opportunity to thank all for your understanding because the delays were not caused by this Committee or the board, but the changes in budgeting and the supplementary budget that we passed recently.

Thank you, very much.

**Hon. Speaker:** Hon. Members, before we move to Order No. 8, I wish to allow The Leader of the Majority Party to move a Procedural Motion.

## PROCEDURAL MOTION

### EXTENSION OF SITTING TIME

**Hon. Aden Duale** (Garissa Township, JP): Hon. Speaker, pursuant to the provisions of Standing Order No. 30(3)(a), this House resolves to extend the sitting time of the House until conclusion of business appearing under Order No.9.

Order No. 8 is the Procedural Motion and Order No.9 on the supplementary Order Paper is the Committee of the whole House on Health Laws (Amendment) Bill, which we started yesterday. Knowing that we are going on recess - this will be our last day until 6<sup>th</sup> November 2018 - this is just a cautionary Motion. If we finish, we are home and dry. In case we do not finish, we have a leeway until this order is concluded. It is only for Order No.9.

I beg to move and ask Hon. Chris Wamalwa to second.

**Hon. (Dr.) Chris Wamalwa** (Kimini, FORD-K): Thank you, Hon. Speaker. Health Laws are very important and they are long overdue. I, therefore, request Hon. Members to remain behind because this is a very important law as far as health issues are concerned.

Thank you, Hon. Speaker. I second.

**Hon. Speakers:** I hope Members are paying attention. Even those who like debating on television about health have already taken off. I am not referring to any particular Member, but I have just seen some who are very vocal on television shows about health happily begin their recess and yet we are dealing with the Committee of the whole House on health matters.

*(Question put and agreed to)*

Hon. Members, I may wish to congratulate many of you who stayed and participated in discussions on this Bill in Committee of the whole House. You know yourselves. Member for Suba North, I could tell you were very active. I cannot mention everybody. The Member for Seme will never leave the Chamber when we have this kind of Bill. Of course, Member for Ndhiwa, Member for Kiminini and Hon. Wanyonyi.

The Member for Endebess, the Chair of the Committee and even the Mover remained in the House throughout and it is commendable. That is the way it should be when there is such important legislation being considered at this very crucial stage in the law-making process.

Next Order.

## MOTION

### EXTENSION OF RECRUITMENT PERIOD FOR NCIC COMMISSIONERS

**Hon. Speaker:** The Vice-Chair of the Committee, Hon. (Prof.) Ogotu. He is a member? Very well, I was notified by the Chair that he will be moving this Motion.

**Hon. (Prof.) Zadoc Ogotu** (Bomachoge Borabu, Independent): Hon. Speaker, on behalf of the Chairman and the Committee, I want to take this opportunity to move this Motion. Commissioners of the National Cohesion and Integration Commission (NCIC) were appointed in 2013 and their tenure has expired. The commission is in the process of recruiting new commissioners.

**Hon. Speaker:** Hon. Ogotu, you are a committee, not a commission.

**Hon. (Prof.) Zadoc Ogotu** (Bomachoge Borabu, Independent): Hon. Speaker, I am learning. I beg to move the following Procedural Motion:

THAT, notwithstanding the provisions of paragraph 3 of the First Schedule of the National Cohesion and Integration Commission Act, 2008, and pursuant to the provisions of Section 13 of the Public Appointments (Parliamentary Approval) Act, 2011, this House resolves to extend the period for recruitment of commissioners to the National Cohesion and Integration Commission by a further 14 days from 2<sup>nd</sup> November 2018.

The commissioners of the NCIC were recruited in 2014 and their term has expired. We are in the process of recruiting new commissioners. For a number of constraints, we beg that we be given more time to be able to undertake this process in the best manner possible. A large number of applications have already been received and we expect more to be received as the period for submission of applications has been extended by one more day. This then will mean more time needed for the secretariat to do analysis.

Secondly, we are breaking for recess and it is the request of Members of this Committee that it may not be possible enough to get all of them to attend to the various steps in the recruitment of these personalities. For that reason, it would be useful that we give enough time which will give the Members opportunity to reflect on the report of the analysis from the secretariat.

Thirdly, this process that has been initiated is very crucial. The NCIC commissioners are very useful to this nation because they will be members of one of the commissions that carry the fate of this nation. It is, therefore, important to note that the timeline in the Act of seven days is too tight for a successful and good process to be conducted and concluded. A critical component that makes us to make this application is public participation. We need to fully involve the public

in the recruitment process. We want to prove the case that Kenya is a healing nation; Kenya is a nation that is currently undergoing a lot of reconciliation. We would want men and women who are strong to lead this process.

With those few remarks, I want to ask Hon. Benjamin Mwangi who is a member of this Committee to second. I move.

**Hon. Speaker:** Member for Embakasi Central.

**Hon. Benjamin Mwangi** (Embakasi Central, JP): Thank you, Hon. Speaker. Public participation is crucial for this commission and as a Committee we feel it will not be good and we will not do justice to the public if we do not give them a chance for public participation. As a nation, we are undergoing many challenges that call for consultations. It is important we recruit people of high integrity who will unite this country.

I second, Hon. Speaker.

*(Hon. Swarup Mishra and Hon. Ferdinand Wanyonyi  
consulted across the Dispatch Table)*

**Hon. Speaker:** Now these two Members who are locking horns... We needed them to disentangle a bit so that we can proceed.

Hon. Members, I think what needs to be explained is that under the law, the Committee would have had only seven days within which to conclude the process. They are requesting that they be given an extra 14 days. This is done as it should be under the Public Appointments (Parliamentary Approval) Act. The extension sought is for 14 days.

*(Question proposed)*

**Hon. Members:** Put the Question.

**Hon. Speaker:** Is it the desire of House that I put the Question?

**Hon. Members:** Yes.

*(Question put and agreed to)*

**Hon. Speaker:** Next Order.

## COMMITTEE OF THE WHOLE HOUSE

*(Order for Committee read)*

*[The Speaker (Hon. Justin Muturi) left the Chair]*

### IN THE COMMITTEE

*[The Chairman (Hon. Moses Cheboi) in the Chair]*

#### THE HEALTH LAWS (AMENDMENT) BILL

*(Resumption of consideration  
interrupted in Committee on 24.10.2018)*

NURSES ACT, CAP.257

*Nurses Act, Cap.257, Paragraph 2(2)*

**Hon. Chairman:** Order Members! For guidance, we resume Committee of the whole House on the Health Laws (Amendment) Bill (National Assembly Bill No. 14 of 2018). I encourage the Chair to be very clear and brief. Only two Members will be given opportunity on any proposed amendments. Therefore, we will be moving pretty fast.

*(Hon. (Ms.) Odhiambo-Mabona spoke off record)*

Order, Hon. Millie. I might start by debriefing you if you continue in that manner. I have made a decision that only two Members will speak to every amendment. That is the position that has always been in the House. The Chair will be brief and we will be pretty fast.

We are on the provisions relating to nurses and we are at Schedule 2(2).

**Hon. Chairman:** Are we together Hon. Members? We are doing page 1408 of the Order Paper and page 637 of the Bill. We are dealing with provisions relating to Nurses Act Cap. 257.

Proceed, Hon. Chair.

**Hon. (Ms.) Sabina Chege** (Murang'a CWR, JP): Thank you Hon. Chairman, I beg to move:

THAT, the Schedule to the Bill be amended –

(n) by deleting the proposed amendment to paragraph 2(2) of the Schedule.

The amendment seeks to retain the current position of the Act which provides that the period of notice of a meeting in respect of an allegation made against a Member shall be 14 days and not seven days as it has been proposed in the Bill.

*(Question of the amendment proposed).*

**Hon. Chairman:** It is just a deletion. Hon. Millie Odhiambo, do you want to speak to the deletion? Okay proceed.

**Hon. (Ms.) Odhiambo-Mabona** (Suba North, ODM): Thank you, Hon. Chairman, I wish to support from a rule of law perspective. You need to give ample time for somebody to respond and so I support.

**Hon. Chairman:** It seems many Hon. Members are supporting.

*(Question, that the words to be left out be left out,  
put and agreed to)*

*((Provisions relating to the Nurses Act Cap.257,  
paragraph 2(2) as amended agreed to)*

*Nurses Act, Cap.257, New Section 2*

**Hon. Chairman:** Let us have the Mover to move the Second Reading. It is a new section and so you need to move the Second Reading. It is in the Order Paper.

*(Consultations)*

What is it Hon. Onyonka?

**Hon. Richard Onyonka** (Kitutu Chache South, FORD-K): I am a bit confused. I remember yesterday there was a discussion that there were parts of the Food, Drugs and Chemical Substances Act which the Hon. Speaker...

**Hon. Chairman:** We are dealing with the Nurses Act.

**Hon. Richard Onyonka** (Kitutu Chache South, FORD-K): That is why I said I am not sure. I am confused.

**Hon. Chairman:** No, Hon. Onyonka. You can never be confused. You know you are a very seasoned Member and you have handled many of these things many times.

**Hon. Richard Onyonka** (Kitutu Chache South, FORD-K): Thank you. I get it.

**Hon. Chairman:** So, you are in order. It is the Chair who is delaying the process of what we want to do. So, Chair, you are the one who is moving the Second Reading. All you need to do is to say that the New Section 2 be now read a Second Time

**Hon. (Ms.) Sabina Chege** (Murang'a CWR, JP): Hon. Chairman, I beg to move:

THAT, the New Section 2 be now read a Second Time.

**Hon. Chairman:** You need to just explain briefly so that Members can be up to speed.

**Hon. (Ms.) Sabina Chege** (Murang'a CWR, JP): This section was about the new terms, that is, midwife and nurses. The amendment proposes to change the name of the Act to read: "The Nurses and Midwives Act." So, the amendment is necessary to remove the term "midwife" from the definition of the word "nurse" since it has been defined on its own.

**Hon. Chairman:** That is very clear.

*(Question of the new section proposed)*

*(New section read the First Time)*

*(Question, that the new section be*

*read a Second Time, proposed)*

I give two Hon. Members. Let us have Hon. Osotsi. He is the one on top of the list. He is absent. Remove the card so that when he comes back we can realise that he has come back. Leader of the Majority Party, do you want to speak to this one?

**Hon. Aden Duale** (Garissa Township, JP): I think it is just about the two terminologies we have introduced in this Bill, that is, "midwife" and "nurse".

**Hon. Chairman:** So, let us have one more Member so that I keep you at two. Let us see if Hon. Edith Nyenze wants to speak to this one. She does not and so I put the Question.

*(Question, that the new section be read*

*a Second Time, put and agreed to)*



*(The new section was read a Second Time)*

*(Question, that the new section be added to  
the Schedule to the Bill, put and agreed to)*

Hon. Members, we are now moving to provisions relating to the Kenya Medical College Act, Cap.261. In the Order Paper we are at Page 1408.

KENYA MEDICAL TRAINING COLLEGE ACT, CAP. 261

*Kenya Medical Training College, Cap.261, Section 2*

**Hon. (Ms.) Odhiambo-Mabona** (Suba North, ODM): Hon. Chairman, could I request the Chair of the Committee that when she is moving the amendments, even though you have encouraged her to be brief, for purposes of legislative records, that where you have more than one proposed amendments like the one we have just gone through, she speaks to them. This is because she has just spoken about definition of midwives and nurses and yet there was also constitution of a body. So, by the time we want to talk to it, we have already passed. So, Hon. Chairman even if we want to be fast, there is no Standard Gauge Railway (SGR) or a plane here. We are legislating.

**Hon. Chairman:** Well the SGR is close by but I encourage her to act as you said. She should be brief and clear. We have had a lot of time to debate this at the second stage. Hon. Chair, I encourage you to move fast and clearly. If there is anything that we think you should clarify further, Hon. Members can rise on a point of order and we will sort it out. Proceed.

**Hon. (Ms.) Sabina Chege** (Murang'a CWR, JP): Thank you Chairman, I stand guided. I beg to move:

THAT, the Schedule to the Bill be amended –

(7) in the proposed amendments to the Kenya Medical Training College Act, Cap.261 –  
(a) in the proposed amendments to section 2, by deleting the words “in charge of” appearing in the definition of the term “Cabinet Secretary” and substituting therefor the words “responsible for”;

The amendment is in keeping with the House drafting style which uses the term “Cabinet Secretary responsible for”, instead of “Cabinet Secretary in charge of”.

*(Question of the amendment proposed)*

**Hon. Chairman:** I will give two Hon. Members unless it is very clear. Members, please, use the intervention slot. It is much clearer.

*(Question, that the words to be left out be left out,  
put and agreed to)*

*(Question, that the words to be inserted in place thereof  
be inserted, put and agreed to)*

*(Provisions relating to Kenya Medical Training College, Cap.261,  
Section 2 as amended agreed to)*

*(Sections 3(1)(b) and 4(1) agreed to)*

*Kenya Medical Training College, Cap.261, Section 4(2)*

**Hon. (Ms.) Sabina Chege** (Murang'a CWR, JP) Hon. Chairman, I beg to move:

THAT, the Schedule to the Bill be amended –

(b) by deleting the proposed amendment to section 4(2) and substituting therefor the following new proposed amendment–

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

“(2) The common seal of the College shall be kept in the custody of the Corporation Secretary and shall be authenticated by the signature of the Chief Executive Officer.”

This amendment is about the common seal of the college. It seeks to bring the Act in conformity with the *Mwongozo* Code of Governance and Ethics in relation to authenticating common seals of boards.

*(Question of the amendment proposed)*

**Hon. Chairman:** I will give two Members. Let us start with the Leader of the Majority Party.

**Hon. Aden Duale** (Garissa Township, JP): I think the Chair's amendment means that the common seal of the college shall be kept by the Corporation Secretary. But to ensure there are checks and balances, the Chief Executive Officer (CEO) must authenticate its usage to ensure there is harmony.

**Hon. Chairman:** Hon. Mutua Barasa, I see you want to speak to this one.

**Hon. Didmus Barasa** (Kimilili, JP): I just want to bring to the attention of the House that this is a very important Bill. We want to hear what this amendment seeks to introduce in the current Health Laws. This is because we need to improve them and not deteriorate them further. The Chair should tell us its importance and value addition.

**Hon. Chairman:** Hon. Barasa, from where I sit, both the Chair and the Leader of the Majority Party were very clear and they explained the specific issues, not unless you did not understand. Let us hear from the Leader of the Majority Party on his clarification.

**Hon. Aden Duale** (Garissa Township, JP): Hon. Didmus Barasa was not here yesterday. We are no longer looking at the importance of this law to the sector, we are dealing with specific amendments and the Chair while moving must give reasons. This amendment was very clear, one person will keep the seal and the other will authenticate its usage.

**Hon. Chairman:** Hon. Barasa, even if you have a different opinion, I cannot see your name on the list. I do not think you have a card. If you have it place an intervention and I will give you an opportunity. You do not have a card so, I will ignore you.

*(Question, that the words to be left out be left out,*

*put and agreed to)*

*(Question, that the words to be inserted in place thereof  
be inserted, put and agreed to)*

*(Provisions relating to Kenya Medical Training College, Cap.261,  
Section 4(2) as amended agreed to)*

*(Sections 4(3), 5(1), (5(2) and 7(a) agreed to)*

*Kenya Medical Training College, Cap.261, Section 7(b)*

**Hon. (Ms.) Sabina Chege** (Murang'a CWR, JP): Hon. Chairman, I beg to move:

THAT, the Schedule to the Bill be amended –

(c) by inserting the following new amendment immediately after the proposed amendment to section 7(b)–

(c) Delete the words “constituent training centre” and substitute therefor the word “campus”

This amendment seeks to ensure that all branches of KMTC are known as campuses and not constitute training centres.

*(Question of the amendment proposed)*

**Hon. Chairman:** Let us have Hon. Wamalwa. You should not raise a point of order. Just proceed and contribute, you have the Floor.

**Hon. (Dr.) Chris Wamalwa** (Kimini, FORD-K): The Chair should give the justification because in this case she has said she wants constitute training centres to be known as campuses. I know these are synonyms but what is the justification? Why should it be called a campus instead of remaining as constitute training centre? Members want to know the justification. In this country, we know campus means university. Universities offer degrees and that is why they are called campuses. It will be confusing to call them campus while they offer diplomas. So, please justify.

**Hon. Chairman:** I do not want to enter into debate. For sure Dr. Wamalwa knows it does not matter. The word ‘campus’ is not reserved for institutions offering degrees. But you are right in asking for justification. Let me give Hon. (Dr.) Pukose.

**Hon. (Dr.) Robert Pukose** (Endebess, JP): Thank you, Hon. Chairman. A campus means land on which a university or college is built on. A constitute training centre is administered by the main college. By calling it a campus it means it will have its own administration and will function independently.

**Hon. Chairman:** I will probably give one more Member on this particular one. I am looking for the names of Members who I can see raising their hands but I cannot see them on the request. Let us have Hon. Kitonga Maanzo.

**Hon. Daniel Maanzo** (Makueni, WDM-K): Thank you, Chairman. The justification is in the statute of the college. So, I want to support the Chair on this because she is right. The word ‘campus’ is correct based on the statute.

*(Question, that the words to be left out be left out,  
put and agreed to)*

*(Question, that the word to be inserted in place thereof  
be inserted, put and agreed to)*

*(Provisions relating to Kenya Medical Training College,  
Cap.261, Section 7(b) as amended agreed to)*

*Kenya Medical Training College, Cap.261, Section 7(d)*

**Hon. (Ms.) Sabina Chege** (Murang'a CWR, JP): Hon. Chairman, I beg to move:

THAT, the Schedule to the Bill be amended –

(d) by inserting the following new amendment immediately after the proposed amendment to section 7(d)–

(e) Delete the word “Board” and substitute therefor the word “Council”

This is about terminologies and the amendment seeks to ensure that the Act conforms to the changes as per the new Health Act by giving the academic Board a new term academic Council.

*(Question of the amendment proposed)*

**Hon. Chairman:** I will give opportunity to two Members. Hon. Wamunyinyi.

**Hon. Wafula Wamunyinyi** (Kanduyi, FORD-K): Thank you, Hon. Chairman. I rise to support this proposed amendment. This board can be like that of a parastatal or any institution not meant for higher learning. So, it is to give it the alignment it requires so that it is an educational institution with a council that runs the affairs and supervises and so on. I support.

**Hon. Chairman:** It is straightforward.

*(Question, that the word to be left out  
be left out, put and agreed to)*

*(Question, that the word to be inserted in place  
thereof be inserted, put and agreed to)*

*(Provisions relating to Kenya Medical Training College,  
Cap.261,Section 7(d) as amended agreed to)*

*(Sections 7(i) and (j) agreed to)*

*(Section 8 agreed to)*

*Kenya Medical Training College, Cap.261, Section 8(1)*

**Hon. (Ms.) Sabina Chege** (Murang'a CWR, JP): Hon. Chairman, I beg to move:

THAT, the Schedule to the Bill be amended -

(e) in the proposed amendment to section 8(1)–

(i) in the opening sentence, by inserting the words “who shall be the Secretary to the Board” immediately after the words “Chief Executive Officer”;

(ii) in the proposed new paragraph (a), by inserting the word “masters” immediately after the words “hold a”;

This amendment seeks to provide additional functions of the Chief Executive Officer who shall also be the secretary to the board of directors. The amendment also provides a higher qualification of a master’s degree for appointment as the CEO.

*(Question of the amendment proposed)*

**Hon. Chairman:** I will start with Hon. Gichimu Githinji, Member for Gichugu.

**Hon. Gichimu Githinji** (Gichugu, JP): Thank you, Hon. Chairman. I rise to oppose that amendment. This is because it goes against the spirit of the *Mwongozo* code, which has been the guidance of most of the amendments. Actually, it also seeks to abdicate the role of the company secretary and also seeks to introduce the CEO as a managing director as well. KMTC, as we know it, is not a profit making corporation and managing directors, as we know, are usually in companies that also make profit.

**Hon. Chairman:** At this stage of the House we should not debate but just seek those straight-forward clarifications like what you have done. Let me give the Floor to Hon. Rasso. I do not know why Hon. Pukose says welcome to the House. You have always been a Member of this House. I just cannot understand that, but whatever the reason, I think it is in good gesture.

Proceed, Hon. Rasso.

**Hon. Ali Rasso** (Saku, JP): Thank you, Hon. Chairman. I rise to support that amendment. Many of the principals of different KMTC campus are currently PhD holders. So, when we say that the CEO of KMTC should be a master’s degree holder, we are saying that the holder of that office should be a highly qualified Kenyan. Also, the many years of experience are required in this particular case.

I beg to support that amendment.

**Hon. Chairman:** Members can have their say.

*(Question, that the words to be inserted  
be inserted, put and agreed to)*

There was a second proposed amendment by Hon. Maanzo, which obviously is dropped now because the Committee amendment was carried.

*(Proposed amendment by Hon. Daniel Maanzo dropped)*

There is also one by Hon. Ondieki Miruka which is also to be dropped because the Committee amendment has been carried.

*(Proposed amendment by Hon. Alfa Ondieki dropped)*

So, we will proceed as we had proceeded. Just for clarity, I will start again.

*(Provisions relating to Kenya Medical Training College,  
Cap.261, Section 8(1) as amended agreed to)*

So, the two amendments are dropped. In future, what I will be doing, because this was a different page, I will be mentioning so that the Member can know and those particular Members who will be having those amendments would get an opportunity to, probably, convince Members on their bit. That is what we will do. I can see under Section 8(5) we will have that kind of a clause.

*(Section 8(2) agreed to)*

*Kenya Medical Training College, Cap.261, Section 8(3)*

**Hon. (Ms.) Sabina Chege** (Murang'a CWR, JP): Hon. Chairman, I beg to move:

THAT, the Schedule to the Bill be amended -

(f) in the proposed amendment to section 8(3), by inserting the words "business development and" immediately before the word "resource" appearing in the proposed new paragraph (d);

This amendment is necessary to ensure that business development shall be one of the key areas in which the college shall focus on so as to take care of the growth of the college.

*(Question of the amendment proposed)*

**Hon. Chairman:** Let us have the Leader of the Majority Party.

**Hon. Aden Duale** (Garissa Township, JP): Mine is not even on this amendment, which I support. I think, procedurally, where there is no amendment it is good you put the Question. Where other Members have amendments, as you said earlier, it is good that you tell Members, if the amendment by so and so is carried then theirs is dropped.

**Hon. Chairman:** That is perfectly in order. I will give the Floor to Hon. (Dr.) Makali Mulu. Of course, my assumption was that the Hon. Members have their Order Papers and, therefore, they would see where there is an amendment or not, but for those Members who, probably, will not be having them, I will be trying to mention. However, that will only be temporary.

Proceed, Hon. Makali Mulu.

**Hon. Makali Mulu** (Kitui Central, WDM-K): Thank you, Hon. Chairman.

**Hon. Chairman:** Sorry, let me say Dr. Makali Mulu. Proceed.

**Hon. Makali Mulu** (Kitui Central, WDM-K): You know, to add these titles you do not just pick them on the streets. They need to be mentioned. I support this amendment because I think this development is very important for our CEO. However, how I wish that we could be consistent because I remember when we were discussing the issue of the poisons board, you said a master's degree is not a requirement. You said it could be an added advantage. That was the opinion of the Leader of the Majority Party and I wonder how he now says yes to it. I think it is important to be consistent.

**Hon. Chairman:** It makes sense although if I remember clearly, what the chair said is that this being an institution of learning, it is a training institution and so it deserves people like you, Hon. (Dr.) Makali Mulu.

However, you see Hon. (Dr.) Makali Mulu, since I have introduced you as Dr. Mulu, in any subsequent mentions if I do not mention Dr. Mulu you can as well take legislative notice that I had already mentioned it in the first place. So, I do not defrock you of the title.

*(Question, that the words to be inserted  
be inserted, put and agreed to)*

*(Provisions relating to Kenya Medical Training College,  
Cap.261, Section 8(3) as amended agreed to)*

*Kenya Medical Training College, Cap.261, Section 8(4)*

**Hon. Chairman:** Hon. Sabina Chege, you have an amendment on this.

**Hon. (Ms.) Sabina Chege** (Murang'a CWR, JP): Hon. Chairman, I beg to move:

THAT, the Schedule to the Bill be amended -

(g) by deleting the proposed amendment to section 8(4) and substituting therefor the following new amendment—

s. 8 (4) Delete and substitute therefor the following new subsection—

“(4) The Chief Executive Officer shall hold office for a term of four years and shall be eligible for reappointment for one further term of four years subject to satisfactory performance of duties.”

This amendment seeks to ensure that the tenure of the CEO is expressly provided for in this Act.

*(Question of the amendment proposed)*

**Hon. Chairman:** I will give two Members a chance starting with Hon. Wetangula Wanyonyi.

**Hon. Tim Wanyonyi** (Westlands, ODM): Hon. Chairman, I wish to support the amendment. It is good that the tenure of the CEO is defined and given. This is four years and he is eligible for reappointment.

This is a good amendment. I support it.

**Hon. Chairman:** Hon. Mutua Barasa, Member for Kimilili.

**Hon. Didmus Barasa** (Kimilili, JP): Thank you, Hon. Chairman. I support this amendment. It is a very good amendment. A CEO should be given an opportunity to showcase the good things he would want to do and after a period of time is subjected to appraisal before re-appointment. If he does not do well, he should be sent home and somebody else should be hired. If he does a good job, he should be reappointed.

*(Question, that the words to be left out  
be left out, put and agreed to)*

*(Question, that the words to be inserted in place  
thereof be inserted, put and agreed to)*

*(Provisions relating to Kenya Medical Training College,*

*Cap.261, Section 8(4) as amended agreed to)*

*Kenya Medical Training College, Cap.261, Section 8(5)*

**Hon. Chairman:** I take precaution because we have three amendments to this section. One is by Hon. Sabina Chege; the Committee's amendment which if carried, Hon. Daniel Maanzo's and Hon. Ondieki Miruka's amendments will fall. I believe I have given sufficient warnings.

*(Hon. (Ms.) Odhiambo-Mabona spoke off record)*

Hold on, Hon. Millie Odhiambo. I know how to drive this seat.  
Proceed Hon. Sabina Chege.

**Hon. (Ms.) Sabina Chege** (Murang'a CWR, JP): Hon. Chairman, I beg to move:  
THAT, the Schedule to the Bill be amended –

(h) by deleting the proposed amendment to section 8(5) and substituting therefor the following new amendment–

s. 8 (5) Delete and substitute therefor the following new subsection–

(5) There shall be a Corporation Secretary to the Board who shall be appointed by the Board, on such terms and conditions of service as the Board may determine.

Because there is interest in the amendment, I need to explain to Hon. Millie Odhiambo what the amendment is about. The amendment seeks to provide for a position of Corporation Secretary to the Board to bring the Act in line with the *Mwongozo* Code of Governance and Ethics.

*(Question of the amendment proposed)*

**Hon. Chairman:** Hon. Moroto. He is not in the House. So, I will give a chance to Hon. Maanzo.

**Hon. Daniel Maanzo** (Makueni, WDM-K): Hon. Chairman, in the particular section, I have proposed an amendment to enable the Board to appoint a Corporation Secretary, as is the practice under the *Mwongozo* Code of Governance and Ethics. The Corporation Secretary shall also be the secretary to the Board. The Corporation Secretary will be different from the CEO under such terms and conditions of service as the Board may determine.

**Hon. Ali Rasso** (Saku, JP): On a point of order, Hon. Chairman.

**Hon. Chairman:** I see many Members are interested in having an intervention. What is your point of order Hon. Dido Rasso? You have the Floor. We have a problem with your microphone. As you prepare yourself, let the Leader of the Majority Party take the Floor.

**Hon Aden Duale** (Garissa Township, JP): Hon. Chairman, it is good we go on record. If you read the amendment of the Chair of the Committee and that of Hon. Maanzo, they are basically the same. Hon. Maanzo says that the Board shall appoint a Corporation Secretary who shall be the secretary to the Board on such terms and conditions of service as the Board may determine. The Departmental Committee Chair says that there shall be a Corporation Secretary to the Board who shall be appointed by the Board on such terms and conditions of service as the Board may determine. They are the same.



**Hon. Chairman:** It seems that they are the same.

*(Hon. (Ms.) Odhiambo-Mabona spoke off record)*

**Hon Aden Duale** (Garissa Township, JP): Hon. Chairman, protect me from Hon. Millie. She is saying that one is in Kiswahili. This is serious business. If you allow me, can you ask the Whip to bring the grandfather, Hon. Moroto to deal with her?

**Hon. Chairman:** No, we cannot allow anybody to deal with this gracious lady. She can only be dealt with by the Chair.

*(Loud consultations)*

Order, Members. I have told you, it is not contradicted. I am the only one who is allowed to deal with Hon. Millie Odhiambo.

*(Laughter)*

Let us have Hon. Ondieki Miruka to see if he has something different, then if we find that things are okay, I will still give chance to one more Member who may want to speak to this amendment. The two Members are practically speaking to the amendments they have.

Hon. Miruka.

**Hon. Alfah Ondieki** (Bomachoge Chache, KNC): Thank you, Hon. Chair. I agree with Hon. Maanzo and differ with the Leader of the Majority Party. The amendments are not the same. The Board shall appoint a Corporation Secretary who shall be the secretary of the Board on such terms and conditions of service as the Board may determine.

**Hon. Chairman:** If you agree with Hon. Maanzo, then it means you also agree with the Chair of the Committee. Anyway, Members will decide.

Lastly, I will give chance to Hon. (Dr.) Nyikal.

**Hon. (Dr.) James Nyikal** (Seme, ODM): Hon. Chairman, as a Member of the Committee, I support the Chair's amendment. There is a distinction. The distinction is that Hon. Maanzo says that, that person will be the secretary to the Board. That is the distinction.

**Hon. Chairman:** What are you supporting yourself?

**Hon. (Dr.) James Nyikal** (Seme, ODM): I support the Chair's amendment.

**Hon. Chairman:** It is not about supporting the Chair.

**Hon. (Dr.) James Nyikal** (Seme, ODM): I support the Committee's amendment that there shall be Corporation Secretary who shall be appointed by the Board on such terms and conditions .... That is what I support. I wanted to make sure that there is distinction so that when we decide, we know the distinction.

**Hon. Chairman:** Ordinarily, Hon. Nyikal is a very meticulous legislator. But on this particular one, he has simply said that he is supporting the Chair's amendment. I will proceed to put the Question and the rest will be as proposed.

Hon. Maanzo's amendment and that of Hon. Ondieki Miruka fall on the face.

*(Question, that the words to be left out  
be left out, put and agreed to)*

*(Question, that the words to be inserted in place thereof be inserted, put and agreed to)*

*(Proposed amendments by Hon. Daniel Maanzo and Hon. Alfah Ondieki withdrawn)*

*(Provisions relating to Kenya Medical Training College, Cap.261, Section 8(5) as amended agreed to)*

Hon. Members, we will proceed straight to deal with the sections. If we put the Question on Section 9, and it is carried, it means that the rest will be carried. We need to go section by section. I see the very experienced legislator from Kanduyi nodding his head. So, let us proceed.

Hon. Millie, to clarify, we were about to deal with Section 9 yet there is section 9 with specific roman numbers. If we had carried Section 9, the implication would have been that all the rest would have been carried because it is Section 9. So, we have decided to do the sections in the particular sub-sections.

*(Hon. (Ms.) Odhiambo-Mabona spoke off record)*

I do not want to engage you from where you sit. Hon. Sabina Chege has an amendment.

*Kenya Medical Training College, Cap.261, Section 9(1)*

**Hon. (Ms.) Sabina Chege** (Murang'a CWR, JP): Hon. Chair I beg to move:

THAT, the Schedule to the Bill be amended –

(i) by deleting the proposed amendment to section 9(1) and substituting therefor the following new amendment –

s. 9 (1) Delete and substitute therefor the following new subsection–

9. (1) The Board shall comprise the following–

(a) a chairperson appointed by the President who shall–

(i) have a minimum of a bachelors' degree in a relevant field from a university recognised by the Board; and,

(ii) have at least ten years' experience in leadership and management;

(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 national treasury or their designated representative

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

(f) three independent members appointed by the Cabinet Secretary taking into consideration gender balance, regional balance and skills mix; and,

(g) one person with knowledge and expertise in finance or audit appointed by the Cabinet Secretary.

The amendment proposes to introduce qualifications for appointment of chairperson and also provides for inclusion in the Board the Director General of Health or their designated representative.

**Hon. Wafula Wamunyinyi** (Kanduyi, FORD-K): On a point of order, Hon. Chairman.

**Hon. Chairman:** What is it Hon. Wamunyinyi?

**Hon. Wafula Wamunyinyi** (Kanduyi, FORD-K): Thank you, Hon. Chairman. First, if the entire Section 9(1) should be carried, she should explain each subsection, so that we can save time. She can explain from (a) to (g). The proposal she has referred to concerning the Director-General and the length of experience of 10 years should be made standard. In different Acts that we are amending, some of them indicate 15 years, others five and others 10 years. She also needs to clarify on the Director-General being a member of the board because it is going to recur. In normal circumstances, it has been the Principal Secretary, who is the Accounting Officer in the ministry and the boss of the director.

**Hon. Chairman:** I hope the Chair is following that bit because that is what I am also grappling with. I see that you have just moved a bit of Section 9(1). There will be a new one. It is not new as you would require to move the new sub-clause. It is just new because it is in the Bill. Proceed in that particular bit then I can propose it and the Members can contribute. It is still 9(1), but there is a small bit which you did not move for clarity.

**Hon. (Ms.) Sabina Chege** (Murang'a CWR, JP): The other one is the terms used. We propose to change "chairman" to "chairperson". These amendments are necessary for the purposes of gender neutrality in drafting.

**Hon. Chairman:** There is a bit on the Chief Executive Officer and the rest.

**Hon. (Ms.) Sabina Chege** (Murang'a CWR, JP): Let me just go through it, Hon. Chairman. In 9(1) (a), there is a proposed amendment of having the chairperson who shall be appointed by the President. We have given the qualifications of the chairperson and the experience. There is also the Chief Executive Officer, the Principal Secretary in the Ministry of Health, the Ministry responsible for the National Treasury and the Director-General. This is to harmonise with the new Health Act, 2017. There are also three independent members appointed by the Cabinet Secretary. Another one person with knowledge and expertise in finance or audit is appointed by the Cabinet Secretary. That goes all the way to (g).

I beg to move.

*(Question of the amendment proposed)*

**Hon. Chairman:** Hon. Millie and then I will come to Hon. Omulele.

**Hon. (Ms.) Odhiambo-Mabona** (Suba North, ODM): Thank you, Hon. Chairman. I support even though I do not understand why the chairperson has to be appointed by the President. Having said that, I support because of ensuring gender and regional balance and skills.

**Hon. Chairman:** Hon. Christopher Omulele, Member for Luanda.

**Hon. Christopher Omulele** (Luanda, ODM): Hon. Chairman, I support this proposed amendment. I just want to raise the attention of this Committee and the Chair, as we proceed, that we have made the Chief Executive Officer to be the secretary to the board in an earlier amendment.

**Hon. Chairman:** I thought we did not because that was the proposal by Hon. Maanzo Kitonga. Was that not the case, Hon. Chair?

**Hon. (Ms.) Sabina Chege** (Murang'a CWR, JP): It was the case.

**Hon. Christopher Omulele** (Luanda, ODM): The proposal by Hon. Maanzo was to make the CEO the secretary to the board, but there is an earlier amendment. If you look at Page 1404 at Paragraph (e), we made the CEO to be the secretary to the board.

**Hon. Chairman:** Hon. Omulele, I can understand why you are very meticulous. From where I know you schooled, there is all the possibility that you would be that keen. Hon. Chair, what is it that you can explain on that particular one?

**Hon. (Ms.) Sabina Chege** (Murang'a CWR, JP): I just want to clarify what Hon. Omulele has raised, which is the truth of the matter. In all the amendments, across the board, the CEO is the secretary to the board. I want to follow *Mwongozo* that clearly states about the appointment of the Corporation Secretary. Section 3 states that the Corporation Secretary may provide full time or part time services depending on the needs of the organisation and (4) states that the Corporation Secretary shall not be a member of the board. The CEO is an *ex-officio* member of the board. So, there is no way we could have a person who is not a member of the board giving secretarial services to the board. That has been the position. This is not only with KMTC, but across the board. We have standardised across the board. We followed *Mwongozo*.

**Hon. Chairman:** That is clear. If you had put that one clearly earlier, the Members would not be having issues. We are doing Section 9(1).

**Hon. Gichimu Githinji** (Gichugu, JP): On a point of order, Hon. Chairman.

**Hon. Chairman:** What is it? We cannot have many contributors on this one.

**Hon. Gichimu Githinji** (Gichugu, JP): I am opposing.

**Hon. Chairman:** You have been in the spirit of opposing this afternoon, but I will allow you because this is a fair house. What is it, Hon. Gichimu Githinji, Member for Gichugu?

**Hon. Gichimu Githinji** (Gichugu, JP): Hon. Chairman, my concern is on 9(1)(f) and (g), where the Committee proposes amendments to include one person nominated by the Council of Governors and three members appointed by the CS. This one erodes the independence of that board.

**Hon. Chairman:** I hear you, but I wish to know which specific area you are contributing to. Is it Page 1409?

**Hon. Gichimu Githinji** (Gichugu, JP): Sorry, Hon. Chairman. I stand guided. I have yesterday's Order Paper.

**Hon. Chairman:** We are obviously on today's Order Paper. The way Parliament runs is such that we can only deal with the current Order Paper. What was there yesterday must have been dealt with yesterday. Hon. Rasso, are you opposing or supporting? If you are supporting, it is pointless, we can proceed.

**Hon. Ali Rasso** (Saku, JP): Hon. Chairman, I am supporting, but I saw something that says, "university recognised by the board". We are making laws for this country. While it might appear small, throughout, it is a university recognised in Kenya by a board. Which is this university that can only be recognised by the board?

**Hon. (Ms.) Odhiambo-Mabona** (Suba North, ODM): Hon. Chairman, I do not know how with my keen eye I missed such a thing. I would want to urge the Chair to do an amendment because she is the only one who can do it. If the board decides to recognise Kanyikela University, which is being formed tomorrow, is that a university? It is not the board that recognises. I urge the Chair to do a further amendment on her feet.

**Hon. Chairman:** What you are raising, Hon. Millie, and Hon. Rasso, looks very reasonable. Let us hear from the Chair.

**Hon. (Ms.) Sabina Chege** (Murang'a CWR, JP): Hon. Chairman, I am in agreement. I think that is just a typo. I want to go on record that we amend that to read "a university recognised in Kenya". That was a typo, my apologies.

**Hon. Chairman:** I am really struggling on how to handle that further amendment. As we make amendments on the Floor, we have to be very clear. You are talking about a university recognised in Kenya. Which is this university recognised in Kenya? Is it a university that is recognised by the Commission for University Education (CUE)? So, it is important for you to consult, so that we do not mess up. This is a very serious Bill, in my opinion.

What is your point of order, Member for Kimilili?

**Hon. Didmus Barasa** (Kimilili, JP): Health being a devolved function, could the Chair consider giving the CoG an opportunity to nominate someone to sit on this? When you are managing a function, it is always good to understand what is going on within the trending spheres.

**Hon. Chairman:** Is the KMTC a devolved function? Let us hear from the leader in the meantime.

**Hon. Aden Duale** (Garissa Township, JP): What is devolved is health. The training aspect of health is not. It is about standards. So, I really urge Hon. Barasa that the CoG has no place here.

**Hon. Chairman:** Let us get this specific further amendment. The best would be when the Chair proposes an amendment, it would be good if we could get the difference on whether she wants it to be "a university recognised in Kenya" or "a university recognised by the CUE". I want us to agree on that because it is critical.

Hon. Kimunya, you know we sometimes get the benefit of some of the very experienced Members. Let us hear your thought on this.

**Hon. Amos Kimunya** (Kipipiri, JP): Thank you, Hon. Chairman. I believe the standard is "a university recognised in Kenya". The manner of recognition of the universities is provided within the Universities Act.

**Hon. Chairman:** Then it means Hon. Sabina Chege proposed a good further amendment. Even from the interruptions by Hon. Pukose, you can still hear that is the exact support he is giving. So, we will move to dispense with the further amendment.

**Hon. (Ms.) Sabina Chege** (Murang'a CWR), JP): Thank you, Hon. Chairman. I beg to move:

THAT, the amendment to Section 9(1) be further amended by deleting the words "by the Board" appearing in paragraph a(1) and substituting therefor the words "in Kenya".

*(Question of the further amendment proposed)*

*(Question, that the words to be left out be left, put and agreed to)*

*(Question, that the words to be inserted in place thereof be inserted, put and agreed to)*

*(Provisions relating to Kenya Medical Training College,*

*Cap.261, Section 9(1) as amended agreed to)*

*(Section 9(2) agreed to)*

*Kenya Medical Training College, Cap.261, Section 9(3)*

**Hon. (Ms.) Sabina Chege** (Murang'a CWR, JP): I beg to move:

THAT, the Schedule to the Bill be amended –

(k) by deleting the proposed amendment to Section 9(3) and substituting therefor the following new amendment–

s. 9(3) Delete and substitute therefor the following new subsection–

“(3) The office of a member of the Board of Directors shall become vacant–

(a) if, not being an *ex officio* member–

(i) he resigns from office by writing to the appointing authority;

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

(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.”

This amendment seeks to provide, with better clarity, the conditions under which the office of a member of the board of directors shall become vacant. In terms of the proposed amendments, a resignation shall be tendered to the appointing authority while only the offences that do not have the option of a fine shall render it vacant.

*(Question of the amendment proposed)*

*(Question, that the words to be left out be left out, put and agreed)*

*(Question, that the words to be inserted in place thereof be inserted, put and agreed to)*

*(Provisions relating to Kenya Medical Training College,*

*Cap.261, Section 9(3) as amended agreed to)*

*(Sections 9(4) and 9(5) agreed to)*

*Kenya Medical Training College, Cap.261, New Section 9A*

**Hon. Chairman:** Hon. (Ms.) Sabina Chege, this is a deletion.

**Hon. (Ms.) Sabina Chege** (Murang'a CWR, JP): I beg to move:

THAT, the Schedule to the Bill be amended –  
(l) by deleting the proposed new section 9A.

The new section was providing for the appointment of Corporation Secretary which is now not necessary since it is provided for in the proposed New Section 8(5).

*(Question of the amendment proposed)*

*(Question, that the words to be left out be left out, put and agreed)*

*(Provisions relating to Kenya Medical Training College,  
Cap.261, Section 9A deleted)*

**Hon. Chairman:** Hon. Members, if you look at the Bill, you will find that Section 10 and Section 10(1) are distinct. Luckily, both of them do not have amendments.

*(Sections 10 and 10(1) agreed to)*

*Kenya Medical Training College, Cap.261, Section 10(2)*

**Hon. (Ms.) Sabina Chege** (Murang'a CWR, JP): I beg to move:

THAT, the Schedule to the Bill be amended –

(n) in the proposed amendment to Section 10(2) by deleting the word “Board” appearing in the proposed new paragraph (f) and substituting therefor the word “Council”.

This amendment is to give effect to the change of the term “board” to “council”.

*[The Chairman (Hon. Moses Cheboi) left the Chair]*

*[The Temporary Deputy Chairman (Hon. Patrick Mariru)  
took the Chair]*

*(Question of the amendment proposed)*

**The Temporary Deputy Chairman** (Hon. Patrick Mariru): Yes, Hon. Wamunyinyi. I will give a chance to two persons and then we can move.

**Hon. Wafula Wamunyinyi** (Kanduyi, FORD-K): Hon. Temporary Deputy Chairman, I have been asking for intervention even before you came to the Chair. It was over the section that we have just passed. I would like to draw the attention of Members to this Section 9(3). It is where we are talking of conviction. I request that we recommit it, if you agree with me. The Leader of the Majority Party, give me your indulgence. It is where you are talking of conviction or a member of the board is convicted of an offence and sentenced for a term not exceeding six months without the option of fine.

**The Temporary Deputy Chairman** (Hon. Patrick Mariru): What is it, Leader of the Majority Party? Order, Hon. Wamunyinyi.

**The Temporary Deputy Chairman** (Hon. Patrick Mariru): Order, Hon. Wamunyinyi. I will give direction on this.

**Hon. Aden Duale** (Garissa Township, JP): We are On Section 10(2). The Member is talking about Section 9(3). We have no problem with him. He can recommit it if he approaches us. Procedurally, there is no way we can discuss a section which we have put Question to. Hon. Wamunyinyi can come and we discuss recommittal. We have enough time because we have passed a Procedural Motion.

**Hon. Wafula Wamunyinyi** (Kanduyi, FORD-K): I mean what we have just passed says that one will be fined and goes back to work, if convicted for stealing. That is what it is saying.

**The Temporary Deputy Chairman** (Hon. Patrick Mariru): Hon. Wamunyinyi, that section can be recommitted. The procedure is there, but that is already done. We are past it now.

*(Question, that the word to be left out be left out,  
put and agreed to)*

*(Question, that the word to be inserted in place thereof  
be inserted, put and agreed to)*

*(Provisions relating to Kenya Medical Training College,  
Cap.261, Section 10(2) as amended agreed to)*

*Kenya Medical Training College, Cap.261, Section 11*

**Hon. (Ms.) Sabina Chege** (Murang'a CWR, JP): Hon. Temporary Chairman, I beg to move:

THAT, the Schedule to the Bill be amended –

n) in the proposed amendment to Section 11–

(i) in the proposed new paragraph (1)(b), by deleting the word “the” and substituting therefor the word “four”;

(ii) by deleting the proposed new paragraph (1)(c) and substituting therefor the following new paragraph–

(c) one head of the faculties of the College appointed by the Board;

(iii) by deleting the proposed new paragraph (1)(d) and substituting therefor the following new paragraph –

(d) one head of each campus appointed by the Board;

(iv) by deleting the proposed new subsection (3) and substituting therefor the following new subsection–

“(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 except in consultation with the Academic Council.”

This amendment is necessary to provide clarity that Deputy Directors of colleges shall be four in number as provided for in the new subsection 8(3).



*(Question of the amendment proposed)*

*(Question, that the words to be left out be left out,  
put and agreed to)*

*(Question, that the words to be inserted in place thereof  
be inserted, put and agreed to)*

*(Provisions relating to Kenya Medical Training College,  
Cap.261, Section 11 as amended agreed to)*

*(Sections 12(2), 13(1), 13(2), 13(3),  
13(4),13 (5)(a) and 13(6) agreed to)*

*Kenya Medical Training College, Cap.261, Section 14(1)*

**Hon. (Ms.) Sabina Chege** (Murang'a CWR, JP): Hon. Temporary Deputy Chairman, I beg to move:

THAT, the Schedule to the Bill be amended –

(o) in the proposed amendment to Section 14(1), by deleting the word “may” and substituting therefor the word “shall”;

This is just deleting the word “may” and substituting therefore with the word “shall”.

**Hon. (Ms.) Odhiambo-Mabona** (Suba North, ODM): Why?

**Hon. (Ms.) Sabina Chege** (Murang'a CWR, JP): Hon. Millie, you understand when you say “shall” it becomes mandatory and when you say “may”, there is an option.

*(Question of the amendment proposed)*

**The Temporary Deputy Chairman** (Hon. Patrick Mariru): The Leader of the Majority Party.

**Hon. Aden Duale** (Garissa Township, JP): I am sorry. I am in Section 14(2).

**Hon. Temporary Deputy Chairman** (Hon. Patrick Mariru): Hon. Omulele.

**Hon. Christopher Omulele** (Luanda, ODM): Hon. Temporary Deputy Chairman, I think this is good amendment because it is making it clear that in the event the CEO is incapacitated, then the deputy shall act. If you use the word ‘may’, you will leave room for people to play around and they can bring somebody else. It is good.

*(Question, that the word to be left out be left out,  
put and agreed to)*

*(Question, that the word to be inserted in place thereof  
be inserted, put and agreed to)*

*(Provisions relating to Kenya Medical Training College,  
Cap.261, Section 14(1) as amended agreed to)*

*Kenya Medical Training College, Cap.261, Section 14(2)*

**Hon. (Ms.) Sabina Chege** (Murang'a CWR, JP): Hon. Temporary Deputy Chairman, I beg to move:

THAT, the Schedule to the Bill be amended –  
 (p) by deleting the proposed amendment to Section 14(2) and substituting therefor the following new amendment–  
 s. 14(2) Delete and substitute therefor the following new 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 Board of Directors, shall appoint a member of the Academic Council to perform the functions of the Chief Executive Officer during such incapacity.”

This is where the Leader of the Majority Party was. We are deleting and substituting the following new subsection. This amendment makes it mandatory for the board to appoint one Deputy Director to serve in an acting capacity in the event of the CEO being incapacitated.

*(Question of the amendment proposed)*

*(Question, that the words to be left out be left out,  
 put and agreed to)*

*(Question, that the words to be inserted in place thereof  
 be inserted, put and agreed to)*

*(Provisions relating to Kenya Medical Training College,  
 Cap.261, Section 14(2) as amended agreed to)*

**The Temporary Deputy Chairman** (Hon. Patrick Mariru): What is your point of order, Hon. Millie?

**Hon. (Ms.) Odhiambo-Mabona** (Suba North, ODM): Hon. Temporary Deputy Chairman, it appears there is a stranger in the House. We have not seen Hon. Savula in a long time. So, we do not know whether he is still a Member of this House. He comes in with a very big ‘Noe’ yet he has no clue what we are doing in the House. Can you, please, direct him? Otherwise, he is a stranger in the House.

**The Temporary Deputy Chairman** (Hon. Patrick Mariru): Hon. Savula is wearing quite a wide smile. Clearly, he is rightly here.

**Hon. (Ms.) Odhiambo- Mabona** (Suba North, ODM): This is not about sugarcane.

**The Temporary Deputy Chairman** (Hon. Patrick Mariru): Hon. Savula, you do not need to speak on this. I heard your negative voice vote. It was quite loud. So, you are rightly here.

*(Hon. Ayub Angatia spoke off record)*

**The Temporary Deputy Chairman** (Hon. Patrick Mariru): Hon. Savula, must you speak on this? The Chair is confirming you are rightly here. You are defended. Let us proceed.

*(Section 14(3) agreed to)*

*Kenya Medical Training College, Cap.261, Section 16(1)*

**Hon. (Ms.) Sabina Chege** (Murang'a CWR, JP): Thank you, Hon. Temporary Deputy Chair, I beg to move:

THAT, the Schedule to the Bill be amended –

(q) in the proposed amendment to section 16(1) by deleting the second proposed amendment.

This is a deletion of the second proposed amendment. The amendment is necessary to retain the current provision of the Act, which states that the board may only invest in securities. Allowing the board to invest in real estate may result in deviation of the college's core mandate. The Committee felt that it was not necessary. So, they would like to have the *status quo* as per the parent Act.

*(Question of the amendment proposed)*

*(Question, that the words to be left out be left out,  
put and agreed to)*

*(Provisions relating to Kenya Medical Training College,  
Cap.261, Section 16(1) as amended agreed to)*

*(Sections 16(2), 17(1), 17(2)(f) and 17(3) agreed to)*

*Kenya Medical Training College, Cap.261, Section 17(4)*

**The Temporary Deputy Chairman** (Hon. Patrick Mariru): Mover.

**Hon. (Ms.) Sabina Chege** (Murang'a CWR, JP): I beg to move:

THAT, the Schedule to the Bill be amended –

(r) in the proposed amendments to the Kenya Medical Training College Act (Cap.261) in the proposed amendment to section 17(4), by deleting the words “a college” appearing in the proposed new subsection (5) and substituting therefor the words “the college”.

This is to correct a grammatical error.

*(Question of the amendment proposed)*

*(Question, that the words to be left out  
be left out, put and agreed to)*

*(Question, that the words to be inserted in place  
thereof be inserted, put and agreed to)*

*(Provisions relating to Kenya Medical Training College,  
Cap.261, Section 17(4) as amended agreed to)*

*(Sections 18(1), 18(2), 18(3) and 19(1) agreed to)*

*Kenya Medical Training College, Cap.261, Section 19(2)*

**The Temporary Deputy Chairman** (Hon. Patrick Mariru): Mover.

**Hon. (Ms.) Sabina Chege** (Murang'a CWR, JP): Hon. Temporary Deputy Chairman, I beg to move:

THAT, the Schedule to the Bill be amended –

(s) by deleting the proposed amendment to Section 19(2) and substituting therefor the following new amendment—

s. 19(2) Delete.

I want to read what I propose to delete:

“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 of the Academic Council without first ascertaining the opinion of the Academic Council.”

As a Committee, we saw that this provision is not necessary in the Act as it restricts the role of the board as the governing organ with oversight role.

I beg to move.

*(Question of the amendment proposed)*

**The Temporary Deputy Chairman** (Hon. Patrick Mariru): Hon. Members, it is important for you to note that there is yet another amendment by Hon. Ondiek Miruka. If the Chair's amendment is carried, the one by Hon. Ondiek will definitely fall.

*(Hon. (Ms.) Odhiambo-Mabona spoke off record)*

Hon. Millie Odhiambo, I am sure the Chair will be well guided on that. The Leader of the Majority Party.

**Hon. Aden Duale** (Garissa Township, JP): Hon. Miruka is away. If you are away, Hon. Millie, your amendment is dropped. I support the Chair's deletion because the function to amend or revoke any statute is the function of Parliament. It is not a function of a CEO or a board or the Executive. I really want to thank the Chair. I think there was a problem of drafting.

**The Temporary Deputy Chairman** (Hon. Patrick Mariru): Hon. Maanzo, why are you guiding the Chair towards the direction of Hon. Gichimu. Hon. Gichimu, you have the Floor.

**Hon. Gichimu Githinji** (Gichugu, JP): Thank you, Hon. Temporary Deputy Chairman. I do stand to support the amendment by the Chair of the Committee. The proposal in the Bill would have made the Academic Council a judge in their own case, because you cannot ask them whether you need to do something that affects them and seek their opinion. So, that is very commendable and I believe it is in the right direction.

Thank you, Hon. Temporary Deputy Chairman.

*(Question, that the words to be left out  
be left out, put and agreed to)*

*(Question, that the words to be inserted in place thereof  
be inserted, put and agreed to)*

*(Provisions relating to Kenya Medical Training College,  
Cap.261, Section 19(2) as amended agreed to)*

**The Temporary Deputy Chairman** (Hon. Patrick Mariru): Hon. Ondiek Miruka's proposed amendment falls.

*(Proposed amendment by Alfah Ondieki withdrawn)*

*(Sections 19(3), 19(4) and 20(1) agreed to)*

*Kenya Medical Training College, Cap.261, Section 20(2)*

**Hon. (Ms.) Sabina Chege** (Murang'a CWR, JP): Hon. Temporary Deputy Chairman, I beg to move:

THAT, the Schedule to the Bill be amended –

(t) by deleting the proposed amendments to Section 20(2) and substituting therefor the following new amendment—

s. 20(2) Delete and substitute therefor the following ne subsection—  
(2) Any person who, except with the written consent of the Board of Directors, uses the words “Kenya Medical Training College” in furtherance of, or as, or in connection with, any advertisement for any trade, business, calling or profession commits an offence and shall be liable on conviction to a fine not exceeding five hundred thousand shillings or to imprisonment for a term not exceeding two years or to both.

This amendment seeks to provide clarity that a person shall only commit an offence if he or she uses the term “Kenya Medical Training College” for purposes of false advertising.

*(Question of the amendment proposed)*

*(Question, that the words to be left out  
be left out, put and agreed to)*

*(Question, that the words to be inserted in place  
thereof be inserted, put and agreed to)*

*(Provisions relating to Kenya Medical Training College,  
Cap.261, Section 20(2) as amended agreed to)*

*(Sections 21, 22(8) and 22(9) agreed to)*

THE NUTRITIONISTS AND DIETICIANS ACT, NO.18 OF 2007

**Hon. (Ms.) Sabina Chege** (Murang'a CWR, JP): I would just like to be guided because with the other one, we did the new sections. This one also had new sections. Maybe we need to revisit it because there are some that we did not go through. I will show you. We can proceed.

*Nutritionists and Dieticians Act, Section 2*

**Hon. (Ms.) Sabina Chege** (Murang'a CWR, JP): Hon. Temporary Deputy Chairman, I beg to move:

THAT, the Schedule to the Bill be amended –

(9) in the proposed amendments to the Nutritionists and Dieticians Act (No.18 of 2007) –

(a) in the proposed amendment to section 2—

- (i) by inserting the words “records of” immediately after the word “keeping” in the definition of the term “indexing”;
- (ii) in the definition of the term “internship”, by deleting the expression “s specialised are” and substituting therefor the words “a specialised area”;

This amendment serves the purpose of correcting grammatical errors. We are inserting the words “records of” immediately after the word “keeping”. We are also giving the definition of the term “indexing”. In the definition of the term “internship”, we are deleting the expression “a specialised are” and substituting therefor the words “a specialised area”. It is just grammatical error. I beg to move.

*(Question of the amendment proposed)*

*(Question, that the words to be left out be left out, put and agreed to)*

*(Question, that the words to be inserted in place thereof be inserted, put and agreed to)*

*(Question, that the words to be inserted be inserted, put and agreed to)*

*(Provisions relating to Nutritionists and Dieticians Act, Section 2 as amended agreed to)*

*Nutritionists and Dieticians Act, Section 3*

**Hon. (Ms.) Sabina Chege** (Murang'a CWR, JP): Hon. Chairman, I beg to move:

THAT, the Schedule to the Bill be amended –

(b) in the proposed amendment to Section 3 by deleting the proposed new subsection (2) and substituting therefor the following new subsection –

“(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 diploma or a degree and has

completed one-year internship or has a minimum three years' experience in nutrition and dietetics".

This amendment serves to provide that both diploma and degree holders shall be entitled to register as nutritionists and dieticians under this Act.

*(Question of the amendment proposed)*

*(Question, that the words to be left out be left out, put and agreed to)*

*(Question, that the words to be inserted in place thereof be inserted, put and agreed to)*

*(Provisions relating to Nutritionists and Dieticians Act, Section 3 as amended agreed to)*

*Nutritionists and Dieticians Act, Section 5(2)*

**Hon. (Ms.) Sabina Chege** (Murang'a CWR, JP): Hon. Chairman, I beg to move:

THAT, the Schedule to the Bill be amended –

(c) by deleting the proposed amendment to Section 5(2) and substituting therefor the following new amendment–

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

(2) The Council shall consist of–

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

(i) be a holder of a bachelors' degree in nutrition or dietetics; and

(ii) have at least ten years of professional experience after the first degree of which two years shall be at leadership and managerial level;

(b) one qualified nutritionist or dietician professional with a minimum of a diploma in good standing from private practice who shall be appointed by the Cabinet Secretary;

(c) the Director of Nutrition and Dietetics Services in the Ministry responsible for health or their designated representative;

(d) one representative of the Consumers Federation of Kenya, who shall be a holder of at least a Bachelors' degree;

(e) one representative of faculties teaching nutrition and dietetics at public universities who shall be competitively sourced and who shall be a holder of at least a Masters' degree;

(f) one representative from public and private middle level colleges, offering courses in nutrition or dietetics;

(g) the Director General for health or their designated representative;

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

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

The amendment seeks to provide for the academic qualifications and years of experience required for one to qualify for the appointment as a chairperson of the council. The amendment also introduces the Director General for Health on the board. I know Hon. Wamunyinyi had asked that question. This is in line with the Health Act 2017.

*(Question of the amendment proposed)*

**The Temporary Deputy Chairman** (Hon. Patrick Mariru): Hon. Millie Odhiambo.

**Hon. (Ms.) Odhiambo-Mabona** (Suba North, ODM): Thank you, Hon. Chairman. I am just curious why in this one, we are providing a minimum qualification for a professional at diploma level when in all the others we are providing at degree level. Is it that nutritionists are very few or what is the reason? I doubt that they are very few. In my own household, we have just got one person with a degree qualification.

**Hon. (Ms.) Sabina Chege** (Murang'a CWR, JP): I thank you, Hon. Millie for the concern. Hon. (Dr.) Nyikal can answer the same although he seems to be very busy reading the amendments. Apart from them being very few, it is not only on this one. Even in nursing, we have also recognised diploma holders. So, this is not unique to dieticians. It is across the board, depending on the cadre. You will see several others that we are also recognising to be diploma holders.

**The Temporary Deputy Chairman** (Hon. Patrick Mariru): Let us have Hon. Nyikal and then we put the Question.

**Hon. (Dr.) James Nyikal** (Seme, ODM): The issue here is that in many of these cadres, you have people who are degree and diploma holders. The pursuit has been that to a large extent, a large number of them have been diploma holders. Then we have a few of them who are degree holders. So, if you start by having a degree, then you will be locking out a very large number of members. On the other hand, even if we include diploma holders, it does not block degree holders. They can still hold the position.

**The Temporary Deputy Chairman** (Hon. Patrick Mariru): Hon. Members, we must make progress on this one. Leader of the Majority Party.

**Hon. Aden Duale** (Garissa Township, JP): I totally agree with Hon. Millie Odhiambo. You know there is this culture in nursing, clinical medicine and nutrition where diploma holders want to hold people hostage. People must go to school and learn. We will support this, but this is very discriminatory. I think in future, we might even amend this section in the Statute Law (Miscellaneous Amendments) Act. We do not want to be victims of the war between diploma and degree holders in the nursing, clinician and nutritionist professions. If they are diploma holders, universities are many and they should go and study. They should not hold back the people who have first degrees, master's degrees and PhDs.

**The Temporary Deputy Chairman** (Hon. Patrick Mariru): Hon. Members, let us make progress on this one.

*(Question, that the words to be left  
out be left out, put and agreed to)*

*(Question, that the words to be inserted in place  
thereof be inserted, put and agreed to)*



*(Provisions relating to Nutritionists and Dieticians Act,  
Section 5(2) as amended agreed to)*

*Nutritionists and Dieticians Act, Section 5(4)*

**Hon. (Ms.) Sabina Chege** (Murang'a CWR, JP): Hon. Temporary Deputy Chairman, I beg to move:

THAT, the Schedule to the Bill be amended –

(d) by deleting the proposed new subsections after section 5(4) and substituting therefor the following new amendment –

New

subsections

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

“(5) Pursuant to nominations in paragraphs (d), (e) and (f) of subsection (2), each organization shall present two nominations one of whom will be appointed by the Cabinet Secretary taking into account ethnic diversity, gender disability, skill mix and regional balance.

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

(7) The Council shall 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, but may establish such other ad hoc committees as may be necessary to carry out the functions of the Council.

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

This amendment seeks to ensure that the nominating organisations will have a say in the person to be appointed in the council, in terms of the amendment. Each nominating organisation shall forward two names to the Cabinet Secretary, who shall then appoint one person from among the persons in each category.

The amendment also seeks to provide for the power of the council to establish such committees as may be necessary for the proper discharge of its function. Forwarding of two names also helps in gender and regional balancing so that the council is well balanced.

*(Question of the amendment proposed)*

**The Temporary Deputy Chairman** (Hon. Patrick Mariru): Leader of the Majority Party.

**Hon. Aden Duale** (Garissa Township, JP): This amendment is very important. Why are we saying that these nominating bodies must send two names to the CS? One is to look at gender and regional balance. However, the leaders of these nominating bodies can nominate their wives, girlfriends, boyfriends or relatives. So, the CS must have the discretion to do due diligence.

*(Question, that the words to be left  
out be left out, put and agreed to)*

*(Question, that the words to be inserted in place thereof be inserted, put and agreed to)*

*(Provisions relating to Nutritionists and Dieticians Act, Section 5(4) as amended agreed to)*

*(Section 6 agreed to)*

*Nutritionists and Dieticians Act, Section 7*

**Hon. (Ms.) Sabina Chege** (Murang'a CWR, JP): Hon. Temporary Deputy Chairman, I beg to move:

THAT, the Schedule to the Bill be amended –

(e) in the proposed New Section 7 by deleting the words “ad hoc”;

This is to remove the words “ad hoc”. The amendment seeks to give effect that the council shall have the power to establish any type of committee and shall not be restricted to establish only *ad hoc* committees.

*(Question of the amendment proposed)*

*(Question, that the words to be left out be left out, put and agreed to)*

*(Provisions relating to Nutritionists and Dieticians Act, Section 7 as amended agreed to)*

*Nutritionists and Dieticians Act, Section 8*

**Hon. (Ms.) Sabina Chege** (Murang'a CWR, JP): Hon. Temporary Deputy Chairman, I beg to move:

THAT, the Schedule to the Bill be amended –

(f) in the proposed New Section 8 by inserting the words “the Council in consultation with the” immediately after the words “from time to time by”.

The amendment seeks to introduce the requirement that the council must consult with the Salaries and Remunerations Commission in determining the remuneration and allowances to be paid to the members of the council.

*(Question of the amendment proposed)*

*(Question, that the words to be inserted be inserted, put and agreed to)*

*(Provisions relating to Nutritionists and Dieticians Act, Section 8 as amended agreed to)*

*Nutritionists and Dieticians Act, Section 9*

**Hon. (Ms.) Sabina Chege** (Murang'a CWR, JP): Hon. Temporary Deputy Chairman, I beg to move:

THAT, the Schedule to the Bill be amended –

(g) in the proposed New Section 9–

(i) by deleting the word “appointed” appearing in the proposed new subsection (1) and substituting therefor the word “recruited”;

(ii) by deleting the word “five” appearing in the proposed new subsection (3) and substituting therefor the word “four”;

(iii) in the proposed new subsection (4), by deleting the words “and in consultation with the council shall be spokesperson of the Institute”.

This is a grammatical error.

*(Question of the amendment proposed)*

**The Temporary Deputy Chairman** (Hon. Patrick Mariru): Yes, Hon. Millie Odhiambo.

**Hon. (Ms.) Odhiambo-Mabona** (Suba-North, ODM): Thank you, Hon. Temporary Deputy Chairman. Even though I support the Chair, I want to say this is not a grammatical error because the words ‘appointed’ and ‘recruited’ have very serious connotation from governance perspective. I support her, but when you recruit, it means there is openness, inclusivity and transparency which we are encouraging in this country.

*(Question, that the words to be left out be left out, put and agreed to)*

*(Question, that the words to be inserted in place thereof be inserted, put and agreed to)*

*(Provisions relating to Nutritionists and Dieticians Act, Section 9 as amended agreed to)*

*(Section 9A agreed to)*

*Nutritionists and Dieticians Act, Section 12*

**Hon. (Ms.) Sabina Chege** (Murang'a CWR, JP): Hon. Temporary Deputy Chairman, I beg to move:

THAT, the Schedule to the Bill be amended –

(h) by deleting the proposed amendment to Section 12 and substituting therefor the following new amendment–

s. 12 Delete the word “Board” wherever it appears and substitute therefor the word “Committee”.

I want to notify the Clerk-at-the-Table that there are some sections that we have skipped. The new term “Accreditation Committee” shall be used to ensure there is no conflict with the main board.

*(Question of the amendment proposed)*

*(Question, that the words to be left out be left out,  
put and agreed to)*

*(Question, that the words to be inserted in place thereof  
be inserted, put and agreed to)*

*(Provisions relating to Nutritionists and Dieticians Act,  
Section 12 as amended agreed to)*

*Nutritionists and Dieticians Act, Section 13*

**Hon. (Ms.) Sabina Chege** (Murang'a CWR, JP): Hon. Temporary Deputy Chairman, I beg to move:

THAT, the Schedule to the Bill be amended –

- (i) in the proposed section 13 –
  - (i) by deleting the word “may” appearing in the opening sentence;
  - (ii) by deleting the proposed new paragraph (f) and substituting therefor the following new paragraph–
    - (f) develop regulations for internship programmes for students of nutrition and dietetics during pre-service training;

This amendment is necessary for purposes of proper grammatical flow.

*(Question of the amendment proposed)*

**The Temporary Deputy Chairman** (Hon. Patrick Mariru): Yes, the Leader of the Majority Party.

**Hon. Aden Duale** (Garissa Township, JP): I think the Chair is getting tired. I want her to read for us. When the word ‘may’ is removed, how will that sentence read?

**The Temporary Deputy Chairman** (Hon. Patrick Mariru): The Chair is gracious enough to read.

**Hon. (Ms.) Sabina Chege** (Murang'a CWR, JP): It reads, “the Accreditation Committee shall generally may”. So, we are deleting the word ‘may’.

**The Temporary Deputy Chairman** (Hon. Patrick Mariru): It is just tidying up.

**Hon. (Ms.) Sabina Chege** (Murang'a CWR, JP): It was a typo.

**The Temporary Deputy Chairman** (Hon. Patrick Mariru): It is truly a typo, as Hon. Millie Odhiambo is saying.

*(Question of the amendment proposed)*

*(Question, that the words to be left out be left out,  
put and agreed to)*

*(Question, that the words to be inserted in place thereof*

*be inserted, put and agreed to)*

*(Provisions relating to Nutritionists and Dieticians Act,  
Section 13 as amended agreed to)*

*(Sections 14, 15, 16(c), 17(1), 19(1), 19(2),  
19(3), 19(5), 21(1) and 25(1) agreed to)*

*Nutritionists and Dieticians Act, Section 25(2)*

**Hon. (Ms.) Sabina Chege** (Murang'a CWR, JP): Hon. Temporary Deputy Chairman, I beg to move:

THAT, the Schedule to the Bill be amended –

(j) by deleting the proposed amendments to Section 25(2) and substituting therefor the following new amendments–

- s. 25(2) Delete paragraph (c) and substitute therefor the following new paragraph–  
(c) one member of the Accreditation Committee;  
Delete the word “Board” appearing in paragraph (e) and substitute therefor the word “Committee”

This amendment seeks to retain the current composition of the disciplinary committee as contained in the Act. It will only remove the chairperson of the Registration Committee and replace with a member of the Accreditation Committee. It further provides clarity with regards to the new name of the Accreditation Committee.

*(Question of the amendment proposed)*

*(Question, that the words to be left out be left out,  
put and agreed to)*

*(Question, that the words to be inserted in place thereof  
be inserted, put and agreed to)*

*(Provisions relating to Nutritionists and Dieticians Act,  
Section 25(2) as amended agreed to)*

*(Section 25(3) agreed to)*

*Nutritionists and Dieticians Act, Section 25(6)*

**Hon. (Ms.) Sabina Chege** (Murang'a CWR, JP): Hon. Temporary Deputy Chairman, I beg to move:

THAT, the Schedule to the Bill be amended –

(l) in the proposed new subsection (6) of Section 25, by deleting the word “instate” and substituting therefor the word “Committee”.

This is in keeping with the principle of simplicity of language in drafting.

*(Question of the amendment proposed)*

**Hon. Christopher Omulele** (Luanda, ODM): On a point of order, Hon. Temporary Deputy Chairman.

**The Temporary Deputy Chairman** (Hon. Patrick Mariru): Hon. Omulele, which section are you seeking?

**Hon. Christopher Omulele** (Luanda, ODM): On a point of order, Hon. Temporary Deputy Chairman. I am on Section 25(2), which we have just dealt with. Is Section 25(6) in the Order Paper?

**The Temporary Deputy Chairman** (Hon. Patrick Mariru): It is on Page 1413.

**Hon. Christopher Omulele** (Luanda, ODM): If it is there, let us move on.

*(Question, that the word to be left out  
be left out, put and agreed to)*

*(Question, that the word to be inserted in place  
thereof be inserted, put and agreed to)*

*(Provisions relating to Nutritionists and Dieticians Act,  
Section 25(6) as amended agreed to)*

*(Sections 27(a) and 27(c) agreed to)*

*Nutritionists and Dieticians Act, Section 30*

**Hon. (Ms.) Sabina Chege** (Murang'a CWR, JP): Hon. Temporary Deputy Chairman, I beg to move:

THAT, the Schedule to the Bill be amended-

(m) in the proposed new section 30, by inserting the following new subsection immediately after subsection (4)-

(5) 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.

This is on the annual accounts of the council. The amendment is necessary so as to include financial provisions and reporting obligations of the council.

*(Question of the amendment proposed)*

*(Question, that the words to be inserted  
be inserted, put and agreed to)*

*(Provisions relating to Nutritionists and Dieticians Act,  
Section 30 as amended agreed to)*

*(Sections 38 and 39 agreed to)*

*Nutritionists and Dieticians Act, New Section 31*

**Hon. Temporary Deputy Chairman** (Hon. Patrick Mariru): Chair, move Second Reading of New Section 31 and then you justify.

**Hon. (Ms.) Sabina Chege** (Murang'a CWR, JP): Hon. Temporary Deputy Chairman, I beg to move:

THAT, the Schedule to the Bill be amended—  
 n) by inserting the following new amendment immediately after the proposed amendment to Section 30—  
 s. 31 Delete.

We want to delete Section 31. It is necessary to avoid duplication as the provision of the old Section 31 will now be adequately covered in the New Section 30.

*(Question of the new section proposed)*

*(New section read the First Time)*

*(Question, that the new section be read a Second Time, proposed)*

*(Question, that the new section be read a Second Time, put and agreed to)*

*(The new section was read a Second Time)*

*(Question, that the new section be added to the Schedule to the Bill, put and agreed to)*

*Nutritionists and Dieticians Act, First Schedule*

**Hon. (Ms.) Sabina Chege** (Murang'a CWR, JP): Hon. Temporary Deputy Chairman, I beg to move:

THAT, the Schedule to the Bill be amended—  
 (o) in the proposed new First Schedule—  
 (i) by deleting paragraph 3(2)(b);  
 (ii) by deleting the proposed paragraph 5(e);

This amendment is necessary to ensure that the conduct of meetings is not subjected to abuse by considering matters in respect of which no notice was given to members.

*(Question of the amendment proposed)*

*(Question, that the words to be left out be left out, put and agreed to)*

*(Provisions relating to Nutritionists and Dieticians Act,*

*First Schedule as amended agreed to)*

*(Second Schedule agreed to)*

KENYA MEDICAL SUPPLIES AUTHORITY ACT NO.20 OF 2013

*Kenya Medical Supplies Authority Act, Section 5(1)(a)*

**The Temporary Deputy Chairman** (Hon. Patrick Mariru): This relates to the Kenya Medical Supplies Authority Act, No.20 of 2013. There are two amendments. Hon. Chair, you may consult.

Hon. Members, on this one, we have two amendments. One is by the Leader of the Majority Party and another by Hon. Sabina Chege. Let us start with the Leader of the Majority Party.

*(Hon. (Ms.) Sabina Chege spoke off record)*

**The Temporary Deputy Chairman** (Hon. Patrick Mariru): Hon. Sabina Chege, why are you giving instructions across the other side? Hon. Nyikal, I am sure the request is granted as you can tell. Let us have the Leader of the Majority Party.

**Hon. Aden Duale** (Garissa Township, JP): You know, I do not offer tutorial here.

**Hon. Gichimu Githinji** (Gichugu, JP): On a point of order, Hon. Temporary Deputy Chairman.

**Hon. Aden Duale** (Garissa Township, JP): What is out of order? I have not even moved.

**The Temporary Deputy Chairman** (Hon. Patrick Mariru): Order, Leader of the Majority Party. He is on a point of order. What is it, Hon. Gichimu? What is out of order?

**Hon. Gichimu Githinji** (Gichugu, JP): Hon. Temporary Deputy Chairman, on all other previous amendments, the Chair has always been giving the Committee the first chance so that if the amendments by the Committee are not carried, then any other person who has their amendments can move their amendments and they are discussed.

**The Temporary Deputy Chairman** (Hon. Patrick Mariru): You know the Leader of the Majority Party is the owner of this Bill and the amendments are not related. It is completely different. So, please, let us have the Leader of the Majority Party.

**Hon. Aden Duale** (Garissa Township, JP): Hon. Temporary Deputy Chairman, you know when you are a first timer, you need to learn, particularly when it comes to the Committee of the whole House. Hon. Wamunyinyi, Hon. Millie Odhiambo and Hon. Nyikal, my amendment is fundamentally different. Secondly, I am the Mover of this Bill.

Having said that, let me move my amendment to Section 5(1)(a).

Hon. Temporary Deputy Chairman, I beg to move:

THAT, the Schedule to the Bill be amended in the proposed amendments to the

Kenya Medical Supplies Authority Act, No. 20 of 2013 –

(h) by inserting the following new amendment immediately before the proposed amendment to Section 5(1)(a)–

S.4 New  
subsection

Insert the following new subsection immediately after subsection (2) –

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



- (a) such drugs and medical supplies are for the time being not available in the Authority; or
- (b) the prices of such drugs and medical supplies as provided by the Authority exceed the prices offered by other commercial entities.”

This amendment seeks to compel national and county public health facilities to procure drugs and medical supplies from the Kenya Medical Supplies Authority (KEMSA). The amendment further provides that the national or county public health facilities may opt to procure such drugs and medical supplies from an alternative source, only in the event that such drugs and medical supplies are not available at KEMSA or where the prices offered by KEMSA are higher than those offered by the alternative commercial source.

*(Loud consultations)*

I have said I am not going to be a tutorial fellow. The Chair can do that, but not me. Look at Page 1413. I am not going to be a tutorial fellow. You know you are a Member of Parliament.

**The Temporary Deputy Chairman** (Hon. Patrick Mariru): Leader of the Majority Party, please, proceed. When a Member asks for the page, if you can remember it, it is good to announce it.

**Hon. Aden Duale** (Garissa Township, JP): Hon. Temporary Deputy Chairman, you can do it, but we have the Order Paper. The KEMSA was formed primarily...

**Hon. (Ms.) Odhiambo-Mabona** (Suba North, ODM): On a point of order!

**Hon. Aden Duale** (Garissa Township, JP): Let me finish. Some Members are irritants.

**The Temporary Deputy Chairman** (Hon. Patrick Mariru): Hon. Millie, what is it? Hon. Leader of the Majority Party, when a Member has raised a point of order... What is out of order?

**Hon. (Ms.) Odhiambo-Mabona** (Suba North, ODM): Thank you, Hon. Temporary Deputy Chairman. We always encourage that they table fewer pieces of legislation and not an omnibus Bill where Members get so tired. I am not challenging the Leader of the Majority Party, but I want us to move together. I have looked at Page 1413 and I do not see his amendments.

**Hon. Members:** They are not there!

**Hon. (Ms.) Odhiambo-Mabona** (Suba North, ODM): Exactly. We cannot see the amendments. We need to move together.

**The Temporary Deputy Chairman** (Hon. Patrick Mariru): Order, Millie Odhiambo. It is on Page 1420. Leader of the Majority Party, please, proceed.

**Hon. Aden Duale** (Garissa Township, JP): She has been my old friend since 2007.

This amendment is very important, colleagues. The KEMSA was established to provide national and county public health facilities. Since KEMSA does not give kickbacks, county governments do not want to buy drugs from them. They buy from individual chemists where they get kickbacks. This amendment binds all national and county health facilities to KEMSA as their first point of call. The only time they will not buy from KEMSA is when the prices are very high or the drug is not available.

If we do not do this, all the drugs at KEMSA stores will expire. This is what is going on in the counties. The money in the county public health facilities is Kenyan taxpayers' money and this is a Kenyan institution. We must put it in law that their first point of call must be KEMSA. If

the prices of KEMSA are very high or the drugs are not available, they can go to the commercial sector.

*(Hon. Aden Duale consulted with the Clerks-at-the-Table)*

**The Temporary Deputy Chairman** (Hon. Patrick Mariru): Let us wait for that consultation. It is important. As soon as I propose the Question, you will get a chance.

**Hon. Aden Duale** (Garissa Township, JP): Hon. Temporary Deputy Chairman, you need to explain. There is a mix up. I was supposed to move the first amendment.

**The Temporary Deputy Chairman** (Hon. Patrick Mariru): Hon. Members, just for the sake of clarification, the Leader of the Majority Party dealt with the new section as he was moving. It is important for us to move slowly so that we are together. We are dealing with Section 5(1)(a) and not a new section. You will have a second take on this.

**Hon. Aden Duale** (Garissa Township, JP): Hon. Temporary Deputy Chairman, I beg to move:

THAT, the Schedule to the Bill be amended –

(i) by deleting the proposed amendment to Section 5(1)(a) and substituting therefor the following new amendment –

s. 5 (1) (a) Delete and substitute therefor the following new paragraph –

(b) a chairperson appointed by the President and who shall –

- (i) have at least a university degree in a relevant discipline;
- (ii) have at least fifteen years' experience in matters relating to healthcare, business management or public administration; and
- (iii) satisfy the requirements of Chapter Six of the Constitution.

This is about the qualifications of the chairperson who would be appointed by the President and will have a university degree in a relevant field, but have at least 15 years' experience in matters relating to healthcare, business management, public administration and satisfy the requirements.

This amendment seeks to provide for the qualifications for the appointment of the chairperson and is in line with the proposed amendment by the Departmental Committee on Health. I have only included public administration as one of the fields in which the chairperson may have experience in.

I included 15 years' experience because in terms of operation, 60 per cent of KEMSA's clients are county governments. Secondly, there is a lot of donor engagement by KEMSA. A lot of money is pumped into KEMSA. The chairperson must have at least 15 years' experience, be mature and have the relevant qualifications. At the end of the day, he will engage with donors, county governments and the relevant national Government agencies. As we move further, we will create a position for the county governments on the board of KEMSA.

*(Question of the amendment proposed)*

**The Temporary Deputy Chairman** (Hon. Patrick Mariru): I just got the clarification. The amendments by Hon. Sabina Chege and the Leader of the Majority Party are the same. It is important to take note of that. I will come to you, Hon. Chair.

Let us have Hon. Martin Owino.

**Hon. Martin Owino** (Ndhiwa, ODM): Thank you, Hon. Temporary Deputy Chairman. I thank the Leader of the Majority Party for that amendment. We considered it in our Committee as well.

As somebody who has worked in a county, let KEMSA be the first stop. As you all know, commodities are an essential part of universal healthcare. Sometimes they run out of stock, but there are other organisations like Mission for Essential Drugs and Supplies (MEDS) with fair prices.

As the President, when you finalise your campaigns and get into office, you have a lot of people to consider. Sometimes, it is difficult. We were trying to make it possible for the President to get these qualifications. As the Leader of the Majority Party says, this is a very important person. As KEMSA expands, we will be considering many donors and bilateral agreements. These qualifications will give the President an easy time.

**The Temporary Deputy Chairman** (Hon. Patrick Mariru): Let us have Hon. Sabina and then we progress.

**Hon. (Ms) Sabina Chege** (Murang'a CWR, JP): Thank you, Hon. Temporary Deputy Chairman. The amendment to Section 5(1)(a) by the Leader of the Majority Party is similar to the Committee's amendment. The only difference is that where we said that the chairperson should have 15 years' experience in matters relating to healthcare and business management, he has added "or public administration". I do not think we have a problem with that as a Committee. I drop my amendment so that we can adopt the one by the Leader of the Majority Party.

*(Proposed amendment by Hon. (Ms.) Sabina Chege withdrawn)*

**The Temporary Deputy Chairman** (Hon. Patrick Mariru): It will depend on the decision the House takes.

*(Question, that the words to be left out  
be left out, put and agreed to)*

*(Question, that the words to be inserted in place  
thereof be inserted, put and agreed to)*

*(Provisions relating to Kenya Medical Supplies Authority Act,  
Section 5(1)(a) as amended agreed to)*

*(Section 5(1)(a)(2) agreed to)*

*Kenya Medical Supplies Authority Act, Section 5(1)(e)*

**The Temporary Deputy Chairman** (Hon. Patrick Mariru): There are two amendments on this. One is by the Leader of the Majority Party and the other one is by Hon. Sabina Chege on Page 1421. Leader of the Majority Party.

**Hon Aden Duale** (Garissa Township, JP): Hon. Temporary Deputy Chairman, I beg to move:

THAT, the Schedule to the Bill be amended –

(d) by deleting the proposed amendment to section 5(1)(e) and substituting therefor the following new amendment -

s.5(1)(e) Delete and substitute therefor the following new paragraph—

“(e) three persons recruited and appointed by the Cabinet Secretary, one of whom shall at least hold a degree in pharmacy and two shall be from among persons who—

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

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

(iii) satisfy the requirements of Chapter Six of the Constitution.

The amendment talks about three persons competitively recruited and appointed by the Cabinet Secretary, one shall hold a degree in pharmacy and two shall be from among persons who have a degree from a university in the relevant discipline. They should have at least 10 years’ experience in management in the health sector and, of course, satisfy the requirements of Chapter Six of the Constitution.

The amendment seeks to ensure that from among the three persons to be appointed by the Cabinet Secretary, one shall have a degree in pharmacy basically because of the functions of this institution. They deal with pharmaceutical products both in drugs and other items. Among the three persons the Cabinet Secretary will appoint, one must have that so that we can have expertise in the board in the person of a pharmacist.

*(Question of the amendment proposed)*

**The Temporary Deputy Chairman** (Hon. Patrick Mariru): Hon. Millie Odhiambo.

**Hon. (Ms.) Odhiambo-Mabona** (Suba North, ODM): Hon. Temporary Deputy Chairman, I support the amendment. I support because of the critical role they play. We need persons with relevant expertise. If we go back to the same issue about degrees, there are certain professions we seem to treat as underhand professions and give them very low levels. That is why we talk about diploma for counsellors, psychologists, nutritionists and dieticians. We must have a paradigm shift. We have even made a provision for degrees in this Parliament and we have given Members a period within which to attain it. There are people who even want to be governors. I know Members right now who have registered to do degrees. Otherwise, they will not be governors. So, why are we providing lower standards? As a nation, we are forging forward. We are not in the 1960s when our parents used to say: “In our days, people were appointed with certain levels of qualifications”. This is the way to go. Let us encourage every Kenyan to pick up the spirit of working hard and not the quick fixes that is being entrenched in the country.

*(Question, that the words to be left out  
be left out, put and agreed to)*

*(Question, that the words to be inserted in place  
thereof be inserted, put and agreed to)*

*(Question, that the words to be inserted be  
inserted, put and agreed to)*

**The Temporary Deputy Chairman** (Hon. Patrick Mariru): Before we move to that, it is important to make it clear about the amendment by the Chair. You notice that the amendment by the Leader of the Majority Party having been carried, the Chair's amendment has to be dropped.

**Hon. (Ms.) Sabina Chege** (Murang'a CWR, JP): Hon. Millie, I was within, but consulting with my legal team because I want to be sure. I wanted to know about the board members. It is clear that one board member will have a degree in pharmacy and the others will have relevant degrees, which is okay with us. So, I support the amendment. I withdraw my amendment.

*(Proposed amendment by Hon. (Ms.) Sabina Chege withdrawn)*

*(Provisions relating to Kenya Medical Supplies Authority Act,  
Section 5(1)(e) as amended agreed to)*

*Kenya Medical Supplies Authority Act, Section 5(2)*

**The Temporary Deputy Chairman** (Hon. Patrick Mariru): Again, we have two proposed amendments, one by the Leader of the Majority Party and another one by Hon. Sabina Chege, the Chair of the Committee.

**Hon Aden Duale** (Garissa Township, JP): Hon. Temporary Deputy Chairman, I beg to move:

THAT, the Schedule to the Bill be amended –  
(f) by deleting the proposed amendment to Section 5(2) and substituting therefor the following new amendment–

s.5(2) Delete.

The amendment is about a deletion. This is necessary to eliminate duplication since provision for the qualification of the chairperson has already been proposed in New Section 5(1)(a).

*(Question of the amendment proposed)*

**The Temporary Deputy Chairman** (Hon. Patrick Mariru): Hon. Sabina Chege, you have another amendment.

**Hon. (Ms.) Sabina Chege** (Murang'a CWR, JP): I have just noted that the Leader of the Majority Party is following what the Committee had recommended. So, we have no problem. We support his amendment and I withdraw my amendment because they are similar.

*(Proposed amendment by Hon. (Ms.) Sabina Chege withdrawn)*

**Hon Aden Duale** (Garissa Township, JP): On a point of order, Hon. Temporary Deputy Chairman.

**The Temporary Deputy Chairman** (Hon. Patrick Mariru): What is your point of order, Hon. Leader of the Majority Party?

**Hon Aden Duale** (Garissa Township, JP): I do not follow committees, but we have similar amendments. Committees demean my office even as a Member of Parliament.

**The Temporary Deputy Chairman** (Hon. Patrick Mariru): Well, that is a discussion for another place.

*(Question, that the words to be left out  
be left out, put and agreed to)*

*(Question, that the words to be inserted in place thereof  
be inserted, put and agreed to)*

*(Provisions relating to Kenya Medical Supplies Authority Act,  
Section 5(2) as amended agreed to)*

*Kenya Medical Supplies Authority Act, Section 5(3)*

**The Temporary Deputy Chairman** (Hon. Patrick Mariru): There are two amendments again; one by the Leader of the Majority Party and the other by Hon. Sabina Chege.

**Hon Aden Duale** (Garissa Township, JP): It looks like the Chair of the Committee is following me. I am not following her. If the people of Garissa Township hear that I am following the Chair, they will interpret it to mean other things.

Hon. Temporary Deputy Chairman, I beg to move:

THAT, the Schedule to the Bill be amended –

(g) by deleting the proposed amendment to Section 5(3) and substituting therefor the following new amendment–

s.5(3) Delete.

The justification is the same, which is to avoid duplication in the qualifications previously provided for in Section 5(3) and now adequately covered in the proposed new sections, which are Sections 5(1)(e) and 5(1)(eb)

*(Question of the amendment proposed)*

**Hon. (Ms.) Sabina Chege** (Murang'a CWR, JP): Hon. Temporary Deputy Chairman, I support. It is not clear who is following who, but I support and drop my amendment.

*(Proposed amendment by Hon. (Ms.) Sabina Chege withdrawn)*

**Hon. (Ms.) Odhiambo-Mabona** (Suba North, ODM): Hon. Temporary Deputy Chairman, is the Leader of the Majority Party in order to allude to what is against nature? He is the one who can follow Hon. Sabina Chege, not vice versa. It goes against the order of nature. He is definitely the one following Hon. Sabina Chege.

**The Temporary Deputy Chairman** (Hon. Patrick Mariru): Order, Hon. Millie. You must be lucky the Leader of the Majority Party was consulting. So, he did not hear what you said.

Hon. Iringo.

**Hon. Kubai Iringo** (Igembe Central, JP): Hon. Temporary Deputy Chairman, I appreciate that these amendments are being carried easily because they are quite in order. Can we get a clarification on who copied from the other one because they are similar? It is just

wasting our time. One of them must tell us who copied from the other and stop duplicating things.

**The Temporary Deputy Chairman** (Hon. Patrick Mariru): Hon. Iringo, you do not need a clarification. These are two Members who are working very hard. They seem to have a common position, which is good in this case.

*(Question, that the words to be left out  
be left out, put and agreed to)*

*(Question, that the words to be inserted  
in place thereof be inserted, put and agreed to)*

*(Provisions relating to Kenya Medical Supplies Authority Act,  
Section 5(3) as amended agreed to)*

*(Section 8(2)(a) agreed to)*

*Kenya Medical Supplies Authority Act, Section 8(3)(b)*

**Hon. (Ms.) Sabina Chege** (Murang'a CWR, JP): Hon. Temporary Deputy Chairman, I am wondering why Dr. Pukose is standing, but I understand we have been sitting for a long time. We may need to have a way of doing some exercises.

Hon. Temporary Deputy Chairman, I beg to move:

THAT, the Schedule to the Bill be amendment –

(f) by deleting the proposed amendment to Section 8(3)(b).

The amendment is necessary to retain the current provision in the Act, which states that the CEO shall be the secretary to the board. This is in line with what we did in the other Act.

*(Question of the amendment proposed)*

*(Question, that the words to be left out  
be left out, put and agreed to)*

*(Provisions relating to Kenya Medical Supplies Authority Act,  
Section 8(3)(b) as amended agreed to)*

*(Section 8(4) agreed to)*

*Kenya Medical Supplies Authority Act, New Section 9A*

**Hon. (Ms.) Sabina Chege** (Murang'a CWR, JP): Hon. Temporary Deputy Chairman, I beg to move:

THAT, the Schedule to the Bill be amended –

(g) in the proposed new section 9A-

(i) by deleting the words “and appointed by the Cabinet Secretary” appearing in the proposed new subsection (1);

(ii) by deleting the words “shall be the secretary to the Board” appearing in the proposed new subsection (2);

This amendment seeks to ensure that the appointment of the Corporation Secretary is done only by the board competitively; not by appointment by the Cabinet Secretary.

*(Question of the amendment proposed)*

*(Question, that the words to be left out be left out, put and agreed to)*

*(Provisions relating to Kenya Medical Supplies Authority Act, Section 9A as amended agreed to)*

*Kenya Medical Supplies Authority Act, Section 13(2)*

**Hon. Aden Duale** (Garissa Township, JP): Hon. Temporary Deputy Chairlady, I beg to move:

THAT, the Schedule to the Bill be amended –

(h) by deleting the proposed amendment to section 13(2) and substituting therefor the following new amendment –

s.13(2) Delete and substitute therefor the following new 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 signature of the Chief Executive Officer or the signature of the Corporation Secretary upon delegation by the Chief Executive Officer.”

This amendment seeks to ensure that the authentication of the common seal of KEMSA or the authority may only be done by the CEO. The Corporation secretary may thus authenticate the common seal only upon the delegation of the CEO. This is for governance structure. If you allow the custodian of the seal, who is in this case the Corporation Secretary, he can sit somewhere with three board members and do a reshuffle of the organisation. It is for good governance that the CEO has a role in authenticating what is to be done in terms of the usage of the seal.

*(Question of the amendment proposed)*

*(Question, that the words to be left out be left out, put and agreed to)*

*(Question, that the words to be inserted in place thereof be inserted, put and agreed to)*

*(Provisions relating to Kenya Medical Supplies Authority Act,*



*Section 13(2) as amended agreed to)**Kenya Medical Supplies Authority Act, New Section 4*

**Hon. Aden Duale** (Garissa Township, JP): Hon. Temporary Deputy Chairlady, I beg to move:

THAT, the Schedule to the Bill be amended –

(h) by inserting the following new amendment immediately before the proposed amendment to section 5(1)(a) -

Insert the following new subsection immediately after subsection (2) –

New  
subsection

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

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

(b) the prices of such drugs and medical supplies as provided by the Authority exceed the prices offered by other commercial entities.”

This is to rein in on county public health facilities that most of the time have no drugs simply because they have debts with KEMSA or because they want to buy from small chemists in our towns in order to get kickbacks. This piece of law is making sure that KEMSA will be the first point of call for all public and county health facilities. I am sure the Members will agree with me that people do not want to go to KEMSA because KEMSA does not give kickbacks. That is unlike when you go to Kirinyaga Road and such places. Some people in our counties even become agents for chemists. The money they are using is Government money appropriated by this House. The KEMSA is a Government entity and we must bind that in law.

*(Question of the new section proposed)*

*(New section read the First Time)*

*(Question, that the new section be read a Second Time, proposed)*

**The Temporary Deputy Chairman** (Hon. Patrick Mariru): Yes, Hon. (Dr.) Robert Pukose.

**Hon. (Dr.) Robert Pukose** (Endebess, JP): Thank you, Hon. Temporary Deputy Chairman. I support the Leader of the Majority Party on this knowing very well that KEMSA is a question of standards and quality so that we have standardisation of what is delivered countrywide. You are also aware that at times, drugs that are not authentic have been brought into the country. If you buy from any other chemist, you might buy poison for the *wananchi*. So, I think this is a very good amendment.

**The Temporary Deputy Chairman** (Hon. Patrick Mariru): Hon. Wamunyinyi.

**Hon. Wafula Wamunyinyi** (Kanduyi, FORD-K): Thank you, Hon. Temporary Deputy Chairman. I also support this proposed amendment by the Leader of the Majority Party. Just to stress the fact that KEMSA should be well-resourced and funded to ensure that it is effective in

getting or making available all the drugs that are required so that counties do not have an excuse to go out.

Secondly, we recently had a case of expired drugs that could not be explained where they had been sourced in a certain county. If we pass this law and we are strict about it, we will ensure that our citizens are protected.

**The Temporary Deputy Chairman** (Hon. Patrick Mariru): Let us have just a few Members so that we do not linger. I will come to this side. We had a rule of two, but I will extend a bit on this one. Hon. Duale. There are several Duales and this is Hon. Duale Dahir.

**Hon. Mohamed Duale** (Dadaab, KANU): Thank you, Hon. Temporary Deputy Chairman. I support the Leader of the Majority Party on this new sub-section. We will have value for money and quality. It will also make sure that KEMSA is able to provide the basis for bulk procurement and reduce prices. So that even the private sector can buy from them. One of the most expensive things in this country is medicine. I think this is a long overdue rule which we should entrench in law.

**The Temporary Deputy Chairman** (Hon. Patrick Mariru): Hon. Onyonka, one minute.

**Hon. Richard Onyonka** (Kitutu Chache South, FORD-K): I just wanted to echo what my colleagues have said. Hon. Leader of the Majority Party, I give you a lot of credit for this. The KEMSA has been the problem. I hope we will try and fix it later so that we can have a data bank on how we know when medicines come in and when they go out in a manner that can be followed all the way to county governments. Let us put our feet down and make sure that all the medicines are bought from KEMSA as a first option.

**The Temporary Deputy Chairman** (Hon. Patrick Mariru): Why do we not make progress on this one? Who is opposing? Hon. Thuku, did you say you are opposing? You better do what you say you will.

**Hon. Zachary Thuku** (Kinangop, JP): Thank you, Hon. Temporary Deputy Chairman. I am in support of the amendments up to a certain point where the Leader of the Majority Party is proposing that county governments should buy their supplies from KEMSA. Without opening a Pandora's box whereby you allow such drugs and medical supplies as seen in (a) and (b)... The national Government and county governments are supposed to place their orders with KEMSA. Then, KEMSA can procure, so that we do not open boundaries for county governments to continue spending money on medicine. They will always justify and say that KEMSA does not have supplies.

I am opposed to that.

*(Question, that the new section be read  
a Second Time, put and agreed to)*

*(The new section was read a Second Time)*

*(Question, that the new section be added to  
the the Schedule to the Bill, put and agreed to)*

*[The Temporary Deputy Chairman (Hon. Patrick Mariru)  
left the Chair]*

*[The Temporary Deputy Chairman (Hon. Christopher Omulele)*

*took the Chair]*

**The Temporary Deputy Chairman** (Hon. Christopher Omulele): Hon. Members, we are dealing with new sections.

*Kenya Medical Supplies Authority Act, New Section 5(1)(d)*

**The Temporary Deputy Chairman** (Hon. Christopher Omulele): It is a new section. I call upon the Mover, the Leader of the Majority Party.

**Hon. Aden Duale** (Garissa Township, JP): I beg to move:

(c) by inserting the following new amendment immediately after the proposed amendment to section 5(1)(a)–

s. 5(1)(d) Delete.

This amendment seeks to remove the Principal Secretary in charge of devolution from the membership of the KEMSA Board. The proposed amendment later proposes a representative nominated by the CoG. This will ensure that county governments are adequately represented in the board. The slot was for the PS, but by virtue of counties being 60 per cent clients of the board, they are stakeholders and must protect their interests. That is why we are replacing the PS in charge of devolution from the membership of KEMSA.

*(Question of the new section proposed)*

*(New section read the First Time)*

*(Question, that the new section be read a Second Time, proposed)*

*(Question, that the new section be read a Second Time, put and agreed to)*

*(The new section was read a Second Time)*

*(Question, that the new section be added to the Schedule to the Bill, put and agreed to)*

*Kenya Medical Supplies Authority Act, New Section 5(1)(e)*

**The Temporary Deputy Chairman** (Hon. Christopher Omulele): Mover?

**Hon. Aden Duale** (Garissa Township, JP): I beg to move:

THAT, the Schedule to the bill be amended –

(e) by inserting the following new amendment immediately after the proposed amendment to section 5(1)(e)–

New paragraph Insert the following new paragraph immediately after paragraph 5(1)(e)–

(eb) one person recruited by the Council of Governors and appointed by the Cabinet Secretary from among persons who—

- (i) have at least a university degree in a relevant discipline;
- (ii) have at least ten years' experience in management or in the health sector; and
- (iii) satisfy the requirements of Chapter Six of the Constitution.”

This is where one person is competitively recruited by the Council of Governors (CoG) and appointed by the Cabinet Secretary from persons who have at least a university degree in a relevant discipline and have at least 10 years' experience in management in the health sector. We are just making sure that the CoG will send names to the Cabinet Secretary after doing a competitive recruitment of their person to sit in the board of KEMSA to take care of their interests because 60 per cent of the clientele of KEMSA will be the 47 county governments. So, they must have a representation.

*(Question of the new section proposed)*

*(New section read the First Time)*

*(Question, that the new section be read a Second Time, proposed)*

**The Temporary Deputy Chairman** (Hon. Christopher Omulele): Hon. Nyikal.

**Hon. (Dr.) James Nyikal** (Seme, ODM): Hon. Temporary Deputy Chairman, I rise to support this amendment. For me, even in the other amendment, I would have loved the CoG to be there. The biggest clients of KEMSA will be the county governments. Therefore, it is important that they sit in this board. There are many issues that are coming. We have also said that the first port of call will be KEMSA. Therefore, it is only important that they are represented in the authority.

**The Temporary Deputy Chairman** (Hon. Christopher Omulele): Hon. Sabina.

**Hon. (Ms.) Sabina Chege** (Murang'a CWR, JP): Maybe, I am still trying to understand. First of all, I support the amendment. My issue is with the nominee of the CoG who is going to be a board member. The Cabinet Secretary normally appoints a person and we have already given the qualifications. Being that there are 47 governments, when we again add competitive recruitment, that will be an issue. That is the only issue that I have. I would suggest that there be one person appointed by the CoG because they have their way of appointment instead of competitive recruitment.

**Hon. Aden Duale** (Garissa Township, JP): No, it must be competitive.

**Hon. (Ms.) Sabina Chege** (Murang'a CWR, JP): The other board members are not competitively recruited. Why do you want to discriminate the CoG? For the Cabinet Secretary, it is just an appointment.

*(Hon. (Dr.) Robert Pukose consulted loudly)*

**The Temporary Deputy Chairman** (Hon. Christopher Omulele): Hon. Pukose, allow the Chair to make her contribution.

**Hon. (Ms.) Sabina Chege** (Murang'a CWR, JP): All the other board members are appointed by the Cabinet Secretary apart from the CEO, who is competitively recruited. Even the chairperson is appointed by the President. So, why do we want to do competitive recruitment for the person appointed by the CoG?

Generally, I support.

**The Temporary Deputy Chairman** (Hon. Christopher Omulele): Very well, let us get some clarification from the Mover.

**Hon. Aden Duale** (Garissa Township, JP): Hon. Chair, you know there are 47 governors. Here we are talking about the President or a Cabinet Secretary. For the 47 governors to be comfortable with the person that will sit in the board, they must do it competitively. Whoever they pick, they will send the name to the Cabinet Secretary. There are 47 politicians. How do you pick somebody? They cannot just sit somewhere and pick somebody. They must do a competitive recruitment, whoever wins, then that name is sent to the Cabinet Secretary.

**The Temporary Deputy Chairman** (Hon. Christopher Omulele): Members allow me to put the Question.

*(Question, that the new section be read  
a Second Time, put and agreed to)*

*(The new section was read a Second Time)*

*(Question, that the new section be added to  
the Schedule to the Bill, put and agreed to)*

*Kenya Medical Supplies Authority Act, New Section 5(7)*

**Hon. Aden Duale** (Garissa Township, JP): Hon. Temporary Deputy Chairman, I beg to move:

THAT, the Schedule to the Bill be amended –

(a) by inserting the following new amendment immediately after the proposed amendment to section 5(3) –

New Section

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

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

This amendment is necessary to give effect to the principle of inclusivity in public appointments as enshrined in the Constitution. It is just about the names that will come from the Cabinet Secretary and the CoG. They must all have gender and regional balance. It is about inclusivity.

*(Question of the new section proposed)*

*(New section read the First Time)*

*(Question, that the new section be read a Second Time, proposed)*

**The Temporary Deputy Chairman** (Hon. Christopher Omulele): Hon. Millie, you will hold on because the Chair also has a similar amendment. So, you will make your contribution after the Chair. I will give you an opportunity on it after the Chair.

**Hon. (Ms.) Sabina Chege** (Murang'a CWR, JP): Thank you very much Hon. Temporary Deputy Chairman. I had an amendment on the same section, but it is the same. It is not even similar. So, I support and withdraw my amendment.

*(Proposed amendment by Hon. (Ms.) Sabina Chege withdrawn)*

**The Temporary Deputy Chairman** (Hon. Christopher Omulele): Very well, Hon. Okoth.

**Hon. (Ms.) Odhiambo-Mabona** (Suba North, ODM): It is Akoth.

**Hon. Aden Duale** (Garissa Township, JP): Mabonga

**Hon. (Ms.) Odhiambo-Mabona** (Suba North, ODM): Mabona and not Mabonga. *Hiyo ni bonga points.*

Hon. Temporary Deputy Chair, I want to support. In supporting, I want to say that we are setting a good trend by having inclusivity especially from regional, gender and skills balance. The only thing I encourage us is to know that, as a country, we are being left behind. In Ethiopia, ministers are 50/50 and they just appointed a woman President. Even if it is just ceremonial, we do not mind. Who told you we mind being ceremonial presidents? Sabina Chege does not mind being ceremonial, neither do I?

*(Question, that the new section be read a Second Time, put and agreed to)*

*(The new section was read a Second Time)*

*(Question, that the new section be added to the Schedule to the Bill, put and agreed to)*

## COUNSELLORS AND PSYCHOLOGISTS ACT NO.14 OF 2014

*Counsellors and Psychologists Act, Section 2*

**The Temporary Deputy Chairman** (Hon. Christopher Omulele): There is a proposed amendment to this by Hon. Wamunyinyi.

**Hon. Wafula Wamunyinyi** (Kanduyi, FORD-K): Hon. Temporary Deputy Chair, I beg to move:

THAT, the Schedule to the Bill be amended in the proposed amendments to the Counsellors and Psychologists Act, No.14 of 2014 by deleting the proposed amendments to (a) section 2.

Section 2 is one of the sections I have proposed to amend. I had put them together. If you look at the proposed amendments, they are linked to each other because Section 2 is in respect of council and society as words in the Act. If you amend Section 2, it is going to defeat the proposed amendments to the other sections that I have proposed.

I, therefore, wish to propose amendments to Section 2. Am I making sense?

**The Temporary Deputy Chairman** (Hon. Christopher Omulele): Hon. Wamunyinyi, allow me to propose the Question.

*(Question of the amendment proposed)*

Hon. Members, if Hon. Wamunyinyi's proposals are carried, then the Act will remain as it is. That is my understanding of the proposal. Hon. Wamunyinyi, the Members want to understand exactly what your proposal is about.

**Hon. Wafula Wamunyinyi** (Kanduyi, FORD-K): Hon. Temporary Deputy Chairman, I said Section 2 has a relation to the other sections. It is just deletion of the words, "council" and "society", and that is what I oppose. When you move to Sections 15, 16, 17, 18, 19, 20, 21 and 22, they are about the society. So, if you delete Section 2, it will affect retention of the others, which I am also opposed to. That is why I propose retention. I have reasons. Maybe Members are interested that I give reasons why I want to keep the society.

One, the society was meant to be an umbrella body; a professional association for the members of the profession. It brings them together as members of the profession, similar to any other society in existence. It is important for us to note that this profession of counselling and psychology is fairly unique also. It is not a lesser one. When there was disaster at Westgate - we have had disasters all over - it is not easy to put together counsellors in this country because they are scattered across. For you to get counsellors together to attend to a particular disaster which requires them, you go to the society. It will be easier to mobilise them through a society where they are members. I would like the Leader of the Majority Party, who is my friend, to kindly bear with me on this one so that we can move together. I will support you elsewhere. It is give and take.

The other one which is of importance is that the society is meant to harness the activities of the profession and complement what the board does by self-regulation, training in areas of progression within the profession and to ensure that members of the profession remain professional and registered. Also, this society will not cause an expenditure of public funds or incur expense from the Government. This is a members' organization, which is to ensure that

once you are a member of the profession, qualified and registered, you will be recognised by the board.

**The Temporary Deputy Chairman** (Hon. Christopher Omulele): Let me give some guidance to the House. The Bill, at Page 669, proposes to delete definitions of “council”, “secretary” and “society”. Hon. Wamunyinyi is opposed to this proposed deletion. He wants the *status quo* to remain so that we have those definitions as they are in the Act. Are we together? Do we understand each other? I am going to allow Hon. Onyonka. He caught my eye first, then the Member for Saku and then the Chair.

**Hon. Richard Onyonka** (Kitutu Chache South, FORD-K): Hon. Temporary Deputy Chairman, after listening to what my leader, Hon. Wamunyinyi, has said, I want to soften the heart of the Leader of the Majority Party. This is an organisation.

**Hon. Aden Duale** (Garissa Township, JP): It is not Hon. Wamunyinyi who softens my heart. The only thing that softens my heart is reading the Holy Quran and when my wife and kids talk to me. It is not Wamunyinyi.

**The Temporary Deputy Chairman** (Hon. Christopher Omulele): Hon. Onyonka, make your contribution to the Chair. Do not worry about the Leader of the Majority Party.

**Hon. Richard Onyonka** (Kitutu Chache South, FORD-K): Hon. Temporary Deputy Chairman, the point I am making is that this is a group of individuals who serve in the medical profession. Let us give them legitimacy by allowing them to get themselves together, just like the Medical Practitioners and Dentists Board, where they will run their affairs, but within the structures of the Government and within the Ministry of Health. I do not see what the complication would be.

**The Temporary Deputy Chairman** (Hon. Christopher Omulele): The Member for Saku.

**Hon. Ali Rasso** (Saku, JP): Thank you very much, Hon. Temporary Deputy Chairman. I am also in support of what Hon. Wamunyinyi is saying. This Bill was passed by this House in the last Parliament unanimously. So, if there is no gravitas why it should be expunged, then let us retain it.

Thank you, Hon. Temporary Deputy Chairman.

**The Temporary Deputy Chairman** (Hon. Christopher Omulele): The Leader of the Majority Party, before I allow Hon. Nyikal. Hon. Nyikal, proceed.

**Hon. (Dr.) James Nyikal** (Seme, ODM): We passed this Bill. Hon. Wamunyinyi is my friend and I will support his other proposals. Why the Committee decided so was simple. We are putting two things together. We are putting a regulatory authority and a society together. The Committee’s position was that societies are registered under the Societies Act. This is another Act. Basically, that is why the Committee decided we should split them. So, I oppose this.

**The Temporary Deputy Chairman** (Hon. Christopher Omulele): Finally, let us have the Chair before the House can make a decision on it.

*(Hon. Aden Duale and Hon. (Dr.) Robert Pukose consulted loudly)*

Let us hear the Chair. Hon. Pukose, allow the Chair to put her thoughts together.

**Hon. (Ms.) Sabina Chege** (Murang’a CWR, JP): We have the Leader of the Majority Party here and Hon. Wamunyinyi is also a ranking Member of this House, but there are procedures. We conducted public participation, but I did not see Hon. Wamunyinyi appear before our Committee to bring his sentiments. If he needed to move further amendments, he



should ask the Leader of the Majority Party to drop his amendments, because that is in the Bill, or he would have written his amendment. He has not done any written submission.

I would ask the House to allow us to go through the Committee amendments. If they do not satisfy him, then we can do a recommittal. The first amendment he is proposing is retaining the words proposed for deletion. I have the Act and these are definitions. We might reinstate the definitions, but we might not need them in the Bill if we have the Committee amendments. We met this society and various people who came in during public participation and it is part of our notes. I do not know whether Hon. Wamunyinyi has gone through the Committees' details on the submissions that were done by the counsellors and psychologists who came before us. I would request that you allow me to finish. I admire his zeal and he has stayed with us till now and so, I would painfully reject.

I request that we go through the Committee's amendment and then, if necessary, if we find that whatever he was proposing can be supported and would not interfere with the Committee's amendments, then we can recommit and support it.

**The Temporary Deputy Chairman** (Hon. Christopher Omulele): Hon. Chair, if I could just get you before I allow Hon. Wamunyinyi to make his final submissions. I do not see a proposed amendment by the Committee to this particular section. There is no proposed amendment by the Committee. Hon. Wamunyinyi.

**Hon. Wafula Wamunyinyi** (Kanduyi, FORD-K): Thank you, Hon. Temporary Deputy Chairman. I also just wanted to clarify that there is no proposed amendment to this particular one. However, I am also aware of the submission to the Committee to that affect and, maybe, for information, this Act was passed by Parliament in 2014. It has not been implemented to date. It has not been operationalised to date. When you cause an amendment to an Act which you have not tested... That is why I am appealing. I will support the other amendments that have been proposed by the Committee and they are just coming after section 2.

**The Temporary Deputy Chairman** (Hon. Christopher Omulele): Members, I think we all understand where we are. Allow me now to do what needs to be done.

*(Question of the amendment proposed)*

*(Question, that the words to be left out be left out,  
put and agreed to)*

*(Provisions Relating to Counsellors and Psychologist Act,  
Section 2 as amended agreed to)*

*Counsellors and Psychologists Act, Section 4(1)(b)*

**Hon. (Ms.) Sabina Chege** (Murang'a CWR, JP): Hon. Chairman, I beg to move:

THAT, the Schedule to the Bill be amended –

(b) by deleting the proposed amendment to section 4(1)(b);

There is a proposed deletion and substitution of the way the Board will be composed. The amendment seeks to provide qualifications for the appointment of the Chairperson as we have

done with all the other boards. Also reconstitute the size of the membership of the board to align it with the recommendations...

**The Temporary Deputy Chairman** (Hon. Christopher Omulele): Hon. Sabina. You are dealing with the new section. Go to section 4(1)(b) on page 669 of the green one.

**Hon. (Ms.) Sabina Chege** (Murang'a CWR, JP): I needed to know what we are deleting because ours is a deletion and substitution. We are deleting section 4(1) (b) which reads:

“Delete and substitute therefore the following paragraph—

One person who shall be nominated by the Cabinet Secretary from the public sector.

We have proposed to delete that part because it is already in the new proposed Section. The amendment to 4(1)(b) and the others that will follow will no longer be necessary because our new amendment will take care of them.

*(Question, that the words to be left out be left out,  
put and agreed to)*

*(Provisions Relating to Counsellors and Psychologist Act,  
Section 4(1)(b) as amended agreed to)*

*Counsellors and Psychologists Act, Section 4(1)(e)*

**The Temporary Deputy Chairman** (Hon. Christopher Omulele): Hon. Sabina.

**Hon. (Ms.) Sabina Chege** (Murang'a CWR, JP): Hon. Chairman, I beg to move:

THAT, the Schedule to the Bill be amended –

(c) by deleting the proposed amendment to section 4(1)(e).

This is because of the new section that has been provided.

*(Question of the amendment proposed)*

*(Question, that the words to be left out be left out,  
put and agreed to)*

*(Provisions Relating to Counsellors and Psychologist Act,  
Section 4(1)(e) as amended agreed to)*

*Counsellors and Psychologists Act, Section 4(1)(f)*

**The Temporary Deputy Chairman** (Hon. Christopher Omulele): Hon. Sabina.

**Hon. (Ms.) Sabina Chege** (Murang'a CWR, JP): Hon. Chairman, I beg to move:

THAT, the Schedule to the Bill be amended -

(d) by deleting the proposed amendment to section 4(1)(f).

This is to be in line with the new proposed amendment.

*(Question of the amendment proposed)*

**The Temporary Deputy Chairman** (Hon. Christopher Omulele): Hon. Wamunyinyi.

**Hon. Wafula Wamunyinyi** (Kanduyi, FORD-K): I had promised not to oppose the amendments by the Chair and I want to stick to my word. But I want to point out that in the amendments that the Chair has brought, a point to note is that the Principal Secretary for the parent ministry has been excluded from the Board.

Secondly, I do not know why there is inconsistency. In some Acts, it is proposed that the appointment of the chair be done by the President while in others it is by the Cabinet Secretary. Is this because some other boards or institutions are of lesser value? Why is there inconsistency? We know from all the enabling Acts of all institutions that the authority to appoint the chair is vested with the President. But, in today's legislation in the Counsellors and Psychologists Act and the others, I have seen the chair is to be appointed by the CS. Maybe, the Leader of the Majority Party should shed some light on whether there are particular reasons for this.

This also applies to the diploma issue which the Leader of the Majority Party has articulated before. I do not wish to repeat that holders of diploma in some areas are recognised. I also think this should be addressed.

**The Temporary Deputy Chairman** (Hon. Christopher Omulele): Hon. Leader of the Majority Party.

**Hon. Aden Duale** (Garissa Township, JP): I think the President appoints chairs of State corporations. We allowed you to call this body a society. So, you are the one who lowered it. Let us leave this society at the discretion of the CS.

*(Question of the amendment proposed)*

*(Question, that the words to be left out be left out,  
put and agreed to)*

*(Provisions Relating to Counsellors and Psychologist Act,  
Section 4(1)(e) as amended agreed to)*

*Counsellors and Psychologists Act, Section 4(5)*

**Hon. (Ms.) Sabina Chege** (Murang'a CWR, JP): Hon. Chairman, I beg to move:

THAT, the Schedule to the Bill be amended -

(e) by deleting the proposed amendment to section 4(5) and substituting therefor the following new amendment—

s. 4(5) Delete the word “five” appearing in paragraph (a) and substitute therefor the word “fifteen”

The amendment seeks to remove the requirement of a doctorate degree for appointment as the chairperson of the board as contained in the Bill. Further, the amendment is to increase the years of experience of the chairperson from five to 15 years. We had said the chairperson should have a doctorate degree. That one is removed. Even in all the others, the highest we have gone is to master's. Now that the Hon. Member is fighting for them just to remain as a society that means again it can be a preserve of only very few people and we want to open it. As the chairperson who is appointed by the CS, we do not want to reserve it for just a few looking at the sector.

*(Question of the amendment proposed)*

*(Question, that the words to be left out  
be left out, put and agreed to)*

*(Question, that the words to be inserted in place  
thereof be inserted, put and agreed to)*

*(Provisions Relating to Counsellors and Psychologist Act,  
Section 4(5) as amended agreed to)*

*Counsellors and Psychologists Act, Section 4(6)*

**Hon. (Ms.) Sabina Chege** (Murang'a CWR, JP): Hon. Chairman, I beg to move:

THAT, the Schedule to the Bill be amended –

(f) in the proposed new section 4(6), by deleting the word “shall” appearing immediately after the words “subsection (1)”;

In this amendment, we are just proposing to delete the word “shall” which has appeared twice. The amendment is to remove the repetition of the word “shall” in the Bill.

*(Question of the amendment proposed)*

*(Question, that the word to be left out  
be left out, put and agreed to)*

*(Provisions Relating to Counsellors and Psychologist Act,  
Section 4(6) as amended agreed to)*

*(Section 6 agreed to)*

*Counsellors and Psychologists Act, Section 15*

**The Temporary Deputy Chairman** (Hon. Christopher Omulele): Hon. Wamunyinyi.

**Hon. Wafula Wamunyinyi** (Kanduyi, FORD-K): Hon. Temporary Deputy Chairman, I beg to move:

THAT, the Schedule to the Bill be amended in the proposed amendments to the Counsellors and Psychologist Act No.14 of 2014 by deleting the proposed amendments to—  
(b) section 15;

I said earlier when I was moving the amendment to Section 2 that these are related. This is to align it to what we passed earlier regarding the society. It is all about the society. All this is about the society. I am always very truthful. It is just about the society and nothing else. I have the Act here. You can have a look at it.

**The Temporary Deputy Chairman** (Hon. Christopher Omulele): Hon. Wamunyinyi, allow me to propose the Question.

*(Question of the amendment proposed)*

Let us have the Chair.

**Hon. (Ms.) Sabina Chege** (Murang'a CWR, JP): Hon. Temporary Deputy Chairman, just to help the leader, from Section 15 it is establishment of the society, which had been deleted.

Section 16 is on the membership of the society. Section 17 is on the chairperson of the society. Section 18 is on the functions of the society. Section 19 is on the Council of the Society, committee and membership of the Council and so on. There are two parts. There is part (b) of the society and a part (c) of the council that was retained.

**The Temporary Deputy Chairman** (Hon. Christopher Omulele): Hon. Members, the moment we allowed the definition to pass, it follows that these other sections should also be aligned to it.

*(Question, that the words to be left  
be left out, put and agreed to)*

*(Provisions Relating to Counsellors and Psychologist Act,  
Section 15 as amended agreed to)*

*Counsellors and Psychologists Act, Section 16*

**Hon. Wafula Wamunyinyi** (Kanduyi, FORD – K): Hon. Temporary Deputy Chairman, it is the same rationale. I propose that we tackle all of them together. I had earlier moved all of them.

**The Temporary Deputy Chairman** (Hon. Christopher Omulele): Just move the amendment to Section 16. We will go one by one.

**Hon. Wafula Wamunyinyi** (Kanduyi, FORD – K): Do you want us to go one by one?

**The Temporary Deputy Chairman** (Hon. Christopher Omulele): Yes.

**Hon. Wafula Wamunyinyi** (Kanduyi, FORD-K): Fine. Hon. Temporary Deputy Chairman, I beg to move:

THAT, the Schedule to the Bill be amended in the proposed amendments to the Counsellors and Psychologists Act, No.14 of 2014 by deleting the proposed amendments to —

(c) Section 16

*(Question of the amendment proposed)*

*(Question, that the words to be left out  
be left out, put and agreed to)*

*(Provisions Relating to Counsellors and Psychologist Act,  
Section 16 as amended agreed to)*

*Counsellors and Psychologists Act, Section 17*

**Hon. Wafula Wamunyinyi** (Kanduyi, FORD-K): Hon. Temporary Deputy Chairman, I beg to move:

THAT, the Schedule to the Bill be amended in the proposed amendments to the Counsellors and Psychologists Act, No.14 of 2014 by deleting the proposed amendments to—

(d) Section 17

*(Question of the amendment proposed)*

*(Question, that the words to be left out  
be left out, put and agreed to)*

*(Provisions Relating to Counsellors and Psychologist Act,  
Section 17 as amended agreed to)*

*Counsellors and Psychologists Act, Section 18*

**Hon. Wafula Wamunyinyi** (Kanduyi, FORD-K): Hon. Temporary Deputy Chairman, I beg to move:

THAT, the Schedule to the Bill be amended in the proposed amendments to the Counsellors and Psychologists Act, No.14 of 2014 by deleting the proposed amendments to—

(e) Section 18

*(Question of the amendment proposed)*

*(Question, that the words to be left out  
be left out, put and agreed to)*

*(Provisions Relating to Counsellors and Psychologist Act,  
Section 18 as amended agreed to)*

*Counsellors and Psychologists Act, Section 19*

**Hon. Wafula Wamunyinyi** (Kanduyi, FORD – K): Hon. Temporary Deputy Chairman, I beg to move:

THAT, the Schedule to the Bill be amended in the proposed amendments to the Counsellors and Psychologists Act, No.14 of 2014 by deleting the proposed amendments to—

(f) Section 19

*(Question of the amendment proposed)*

*(Question, that the words to be left out  
be left out, put and agreed to)*

*(Provisions Relating to Counsellors and Psychologist Act,  
Section 19 as amended agreed to)*

*Counsellors and Psychologists Act, Section 20*

**The Temporary Deputy Chairman** (Hon. Christopher Omulele): I will give you an opportunity, Hon. Nyikal. Let him first move the amendment.

**Hon. Wafula Wamunyinyi** (Kanduyi, FORD – K): Hon. Temporary Deputy Chairman, as I said earlier, all these sections are related.

Therefore, Hon. Temporary Deputy Chairman, I beg to move:

THAT, the Schedule to the Bill be amended in the proposed amendments to the Counsellors and Psychologists Act, No.14 of 2014 by deleting the proposed amendments to —

(g) Section 20

*(Question of the amendment proposed)*

**Hon. (Dr.) James Nyikal** (Seme, ODM): Hon. Temporary Deputy Chairman, I am not sure the House is quite clear. Hon. Wamunyinyi is quite clear. I still appeal to him and we can even look at this later. We are creating a regulatory authority and a society at the same time. It is like having the Kenya Medical Association (KMA) and Kenya Medical Practitioners and Dentists Board in one. I do not know how that will work. That is something we have to think about as we go along. We have two bodies - a regulatory authority and a society at the same time.

The regulatory authority is the council; and now we have a society. That is why we were saying that...

**The Temporary Deputy Chairman** (Hon. Christopher Omulele): Hon. Members, allow me now to put the Question.

*(Question, that the words to be left out  
be left out, put and agreed to)*

*(Provisions Relating to Counsellors and Psychologist Act,  
Section 20 as amended agreed to)*

*Counsellors and Psychologists Act, Section 21*

**The Temporary Deputy Chairman** (Hon. Christopher Omulele): Hon. Wamunyinyi, **Hon. Wafula Wamunyinyi** (Kanduyi, FORD-K); Hon. Temporary Deputy Chairman, I beg to move:

THAT, the Schedule to the Bill be amended in the proposed amendments to the Counsellors and Psychologist Act, No. 14 of 2014 by deleting the proposed amendments to—

h) Section 21

*(Question of the amendment proposed)*

*(Question, that the words to be left out be left out, put and agreed to)*

*(Provisions Relating to Counsellors and Psychologist Act, Section 21 as amended agreed to)*

*Counsellors and Psychologists Act, Section 22*

**The Temporary Deputy Chairman** (Hon. Christopher Omulele): Hon. Wamunyinyi, **Hon. Wafula Wamunyinyi** (Kanduyi, FORD-K); Hon. Temporary Deputy Chairman, I beg to move:

THAT, the Schedule to the Bill be amended in the proposed amendments to the Counsellors and Psychologist Act, No. 14 of 2014 by deleting the proposed amendments to—

i) Section 22

*(Question of the amendment proposed)*

*(Question, that the words to be left out be left out, put and agreed to)*

*(Provisions Relating to Counsellors and Psychologist Act, Section 22 as amended agreed to)*

*Counsellors and Psychologists Act, Sections 23(a) and 23(b)*

**The Temporary Deputy Chairman** (Hon. Christopher Omulele): Hon. Sabina Chege. **Hon. (Ms.) Sabina Chege** (Murang'a, CWR, JP): Hon. Temporary Deputy Chairman, I beg to move:

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THAT, the Schedule to the Bill be amended –

(j) in the proposed amendment to section 23(a), by deleting the words “a masters” and substituting therefor the words “a diploma”

(k) in the proposed amendment to section 23(b), by deleting the words “a masters” and substituting therefor the words “a diploma”

These amendments seek to eliminate the requirement of a master’s degree for eligibility of registration as a counsellor or psychologist. This is because the education qualification for counsellors and psychologists starts at diploma level. The holders are entitled to be registered under the Act.

*(Question of the amendment proposed)*

*(Question, that the words to be left out be left out, put and agreed to)*

*(Question, that the words to be inserted in place thereof be inserted, put and agreed to)*

*(Provisions Relating to Counsellors and Psychologist Act, Sections 23(a) and 23(b) as amended agreed to)*

*(Section 28(1) agreed to)*

*Counsellors and Psychologists Act, New Section 4(1)*

**The Temporary Deputy Chairman** (Hon. Christopher Omulele): Hon. Sabina.

**Hon. (Ms.) Sabina Chege** (Murang’a, CWR, JP): Hon. Temporary Deputy Chairman, I beg to move:

THAT, the Schedule to the Bill be amended -

(a) by inserting the following new amendment immediately after the proposed amendment to section 2–

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

(1) The Board shall be composed of–

- (a) a chairperson appointed by the Cabinet Secretary who shall have–
  - (i) a minimum of a bachelors’ degree in a relevant field; and
  - (ii) at least fifteen years’ experience in counselling or psychology;
- (b) the Director General of Health or their designated representative;
- (c) the Principal Secretary in the ministry for the time being responsible for matters relating to finance;
- (d) two persons, who shall be counsellors or psychologists, representing training institutions appointed by the Cabinet Secretary, of whom–
  - (i) one shall represent middle level colleges; and

- (ii) one shall represent institutions of higher learning;
- (e) two persons, one representing counsellors and the other representing psychologists, nominated by registered counsellors and psychologists;
- (f) one person from minorities and marginalised groups who shall be a counsellor or a psychologist and shall be nominated by the Cabinet Secretary; and
- (g) the Registrar, who shall be an ex-officio member and the secretary to the Board.

The amendment seeks to provide qualification for appointment as Chairperson of the Board and reconstitute the size of membership of the Board to align it with the recommendation of *Mwongozo* Code for Governance and Ethics.

*(Question of the new section proposed)*

*(New section read the First Time)*

*(Question, that the new section be read a Second Time, proposed)*

*(Question, that the new section be read a Second Time, put and agreed to)*

*(The new section was read a Second Time)*

*(Question, that the new section be added to the Schedule to the Bill, put and agreed to)*

*Counsellors and Psychologists Act, New Sections 4, (6,) and (8)*

**The Temporary Deputy Chairman** (Hon. Christopher Omulele): Hon. Sabina Chege.

**Hon. (Ms.) Sabina Chege** (Murang'a CWR, JP): Hon. Temporary Deputy Chairman, I beg to move:

THAT, the Schedule to the Bill be amended –

(g) by inserting the following new amendment immediately after the proposed amendment to section 4(6)–

New

subsections Insert the following new subsections immediately after subsection (6)–

“(7) Pursuant to nominations in paragraphs (d) and (e) of subsection

(1), each organisation shall present two nominations one of whom shall be appointed by the Cabinet Secretary.

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

The amendment seeks to ensure that the nominating organisation will have a say in the persons to be appointed in the Board. Each organisation shall forward two names to the Cabinet Secretary who shall then appoint one person from among the persons under each category. The amendment further provides for the tenure of the board members.

*(Question of the new section proposed)*

*(New section read the First Time)*

*(Question that the new section be read a Second Time, proposed)*

*(Question, that the new section be read a Second Time, put and agreed to)*

*(The new section was read a Second Time)*

*(Question, that the new section be added to the Schedule to the Bill, put and agreed to)*

*Counsellors and Psychologists Act, New Sub-section 9(3)*

**Hon. (Ms.) Sabina Chege** (Murang’a CWR, JP): Hon. Temporary Deputy Chairman, I beg to move:

THAT, the Schedule to the Bill be amended –

in the provisions relating to the Counsellors and Psychologists Act, No. 14 of 2014, the Bill be amended—

(h) by inserting the following new amendment immediately after the proposed amendment to section 6—

s. 9(3) Delete and substitute therefor the following new subsection—

(3) The Registrar shall serve—

(a) according to terms and conditions determined by the Board; and,

(b) for a term of four years renewable once subject to satisfactory performance.

These amendments have to expressly provide for the tenure of the registrar which is not currently provided in the Act.

*(Question of the new section proposed)*

*(New section read the First Time)*

*(Question, that the new section be read a Second Time, proposed)*

*(Question, that the new section be read a Second Time, put and agreed to)*

*(The new section was read a Second Time)*

*(Question, that the new section be added to the Schedule to the Bill, put and agreed to)*

*(First Schedule agreed to)*

*Counsellors and Psychologists Act, Second schedule*

**Hon. (Ms.) Sabina Chege** (Murang'a CWR, JP): Hon. Temporary Deputy Chairman, I beg to move:

THAT, the Schedule to the Bill be amended -

(1) by deleting the proposed amendment to the Second Schedule and substituting therefor the following new amendment—

Delete and substitute therefor the following new Schedule—

Second  
schedule

1. The Board shall establish the following committees for the effective discharge of its functions—

- (a) Examination and Registration Committee;
- (b) Continuing Education Committee;
- (c) Disciplinary Committee; and
- (d) Finance and Administration Committee.

2. Despite paragraph 1, the Board may establish such other *ad hoc* committees as may be necessary for the effective carrying out of the functions of the Board.

This amendment serves to provide for the committees that will be established by the Board for the purposes of efficient discharge of its functions.

*(Question of the amendment proposed)*

*(Question, that the words to be left out be left out, put and agreed to)*

*(Question, that the words to be inserted in place thereof  
be inserted, put and agreed to)*

*(Provisions Relating to Counsellors and Psychologist Act,  
Second Schedule as amended agreed to)*

*(Third schedule agreed to)*

*Counsellors and Psychologists Act, New Fourth Schedule*

**Hon. (Ms.) Sabina Chege** (Murang'a CWR, JP): The amendment is necessary since the fourth schedule will be no longer applicable. The fourth schedule provides for the meetings of the counsellors and psychologists society.

Hon. Temporary Deputy Chairman, this society is proposed to be abolished under the Bill. But I might withdraw that amendment because this House has returned the society. It will not make sense.

**The Temporary Deputy Chairman** (Hon. Christopher Omulele): Chair, it is in order to withdraw it.

*(Proposed amendment by Hon. (Ms.) Sabina Chege withdrawn)*

**The Temporary Deputy Chairman** (Hon. Christopher Omulele): Hon. Members, we are now moving to the provisions relating to the Physiotherapists Act No. 20 of 2014. Look at page 1379 of the Order Paper.

PHYSIOTHERAPISTS ACT, NO.20 OF 2014

*Physiotherapists Act, Section 2*

**Hon. (Ms.) Sabina Chege** (Murang'a CWR, JP): I beg to move:

THAT, the Schedule to the Bill be amended –

(a) in the proposed amendment to Section 2, by inserting the words “also referred to as physical therapy” immediately after the word “physiotherapy” in the definition of the term “physiotherapy”;

The term “physiotherapy” is often used interchangeably with “physical therapy”. Therefore, it is important to include both terms in the definitions.

*(Question of the amendment proposed)*

*(Question, that the words to be inserted  
be inserted, put and agreed to)*

*(Provisions relating to Physiotherapists Act,  
Section 2 as amended agreed to)*

*(Section 4(2)(e) agreed to)*

*Physiotherapists Act, Section 6 (1)(d)*

**Hon. (Ms.) Sabina Chege** (Murang'a CWR, JP): I beg to move:

THAT, the Schedule to the Bill be amended -

(b) by inserting the following new amendment immediately after the proposed amendment to section 6(1)(b) -

s.6(1)(d) Delete and substitute therefor the following new paragraph-

“(d) one person with disability nominated by the National Council for Persons With Disabilities;”

*(Question of the amendment proposed)*

*(Question, that the words to be inserted be inserted,  
put and agreed to)*

*(Provisions relating to Physiotherapists Act,  
Section 6 (1)(d) as amended agreed to)*

*Physiotherapists Act, Section 13(1)*

**Hon. (Ms.) Sabina Chege** (Murang'a CWR, JP): I beg to move:

THAT, the Schedule to the Bill be amended -

(f) by inserting the following new amendment immediately before the proposed amendment to section 13 (1) -

New subsections Insert the following new subsections immediately after subsection 6 (2) -

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

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

(h) by inserting the following new amendment immediately before the proposed amendment to section 13(1)-

s. 10(2) Delete and substitute therefor the following new subsection-

(2) A person shall not be appointed under this section unless such person-

(a) holds a degree in physiotherapy from a university recognised in Kenya and is a

- Kenyan citizen;
- (b) is registered as a physiotherapist under this Act; and
- (c) at least ten years' post qualification working experience.

This amendment seeks to ensure that the nominating organisation will have a say in the persons to be appointed to the Council. The organisation shall forward two names for each category to the CS who shall then appoint one person from amongst the persons under each category. The amendment further provides for the tenure of members of the Council.

*(Question of the amendment proposed)*

*(Question, that the words to be inserted be inserted, put and agreed to)*

*(Provisions relating to Physiotherapists Act, Section 13 (1) as amended agreed to)*

*Physiotherapists Act, Section 19(1)*

**Hon. (Ms.) Sabina Chege** (Murang'a CWR, JP): I beg to move:

THAT, the Bill be amended –

(i) in the proposed amendments to section 19(1)–

(i) by deleting the proposed new paragraph (d) appearing in the proposed new subsection (1A);

(ii) by inserting the following new proviso immediately after paragraph (c)–

“unless such institution is established under the Kenya Medical Training College Act, established or accredited under the Universities Act, 2012 or the Technical and Vocational Education and Training Act, 2013, and is approved and recognised by the Council for that purpose in accordance with this Act.”

This amendment will ensure that the entire subject flows properly. I beg to move.

*(Question of the amendment proposed)*

*(Question, that the words to be left out be left out, put and agreed to)*

*(Question, that the words to be inserted be inserted, put and agreed to)*

*(Provisions relating to Physiotherapists Act, Section 19(1) as amended agreed to)*

*[The Temporary Deputy Chairman  
(Hon. Christopher Omulele) left the Chair]*

*[The Temporary Deputy Chairman  
(Hon. Patrick Mariru) resumed the Chair]*

*Physiotherapists Act, Section 22(3)(a)*

**The Temporary Deputy Chairman** (Hon. Patrick Mariru): Hon. Sabina.

**Hon. (Ms.) Sabina Chege** (Murang'a, JP): Hon. Temporary Deputy Chairman, I beg to move:

THAT, the Bill is amended—

(j) by inserting the following new amendment immediately after the proposed amendment to section 19(1)—

(k)

s. Insert the words “and in the official Council website” immediately after 22(3)(a) the words “publish in the Gazette”

This amendment introduces an additional requirement that the registrar shall publish the names of all registered physiotherapists in the Gazette and on the official Council website. This will aid in facilitating easy access to anyone wishing to establish the registration status of a physiotherapist.

I beg to move.

*(Question of the amendment proposed)*

*(Question, that the words to be inserted  
be inserted, put and agreed to)*

*(Provisions relating to Physiotherapists Act,  
Section 22(3)(a) as amended agreed to)*

**The Temporary Deputy Chairman** (Hon. Patrick Mariru): Hon. Members, now we are on the Health Records and Information Managers Act (No. 15 of 2016).

HEALTH RECORDS AND INFORMATION MANAGERS ACT, NO.15 OF 2016

*Health Records and Information Managers Act, Section 2*

**The Temporary Deputy Chairman** (Hon. Patrick Mariru): Hon. Sabina.

**Hon. (Ms.) Sabina Chege** (Murang'a, JP): Hon. Temporary Deputy Chairman, I beg to move:

THAT, the Schedule to the Bill be amended —

(a) in the proposed amendments to section 2—



(i) by deleting the proposed definition of the term “Manager” and substituting therefor the following new proposed definition—

“Manager” means an officer trained in health records and information and charged with the responsibility of managing health records and information for health services which includes—

- (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.
- (ii) by deleting the proposed amendment to the definition of the term “Committee”;

This amendment seeks to provide clarity in the definition of terms as used in the Act. I beg to move.

*(Question of the amendment proposed)*

*(Question, that the words to be left out be left out, put and agreed to)*

*(Question, that the words to be inserted in place thereof be inserted, put and agreed to)*

*(Provisions relating to Health Records and Information Managers Act, Section 2 as amended agreed to)*

*Health Records and Information Managers Act, Section 6(1)(a)*

**The Temporary Deputy Chairman** (Hon. Patrick Mariru): Hon. Sabina.

**Hon. (Ms.) Sabina Chege** (Murang’a, JP): Hon. Temporary Deputy Chairman, I beg to move:

THAT, the Schedule to the Bill be amended —

- (b) by inserting the following new amendments immediately after the proposed amendment to section 6(1)(a)—

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

(d) in consultation with institutions offering training on health records and information technology, prescribe syllabuses of instruction;

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

(e) recommend to the Cabinet Secretary the institutions to train in health records and information technology;

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

(f) with the approval of the Cabinet Secretary, make provision for proficiency examination for persons seeking registration or enrolment under this Act.

This amendment seeks to provide clarity to the functions of the Board in regard to training and examinations in the field of health records and information management.

I beg to move.

*(Question of the amendment proposed)*

*(Question, that the words to be inserted be inserted, put and agreed to)*

*(Provisions relating to Health Records and Information Managers Act, Section 6(1)(a) as amended agreed to)*

*Health Records and Information Managers Act, Section 7(1)(a)*

**The Temporary Deputy Chairman** (Hon. Patrick Mariru): The Chair.

**Hon. (Ms.) Sabina Chege** (Murang'a, JP): Hon. Temporary Deputy Chairman, I beg to move:

THAT, the Schedule to the Bill be amended -

(c) by deleting the proposed amendment to section 7(1)(a) and substituting therefor the following new amendment—

s. 7(1)(a) Delete and substitute therefor the following new paragraph—

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

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

This amendment serves to provide the qualifications for appointment as the chairperson of the board. I beg to move.

*(Question, that the words to be left out  
be left out, put and agreed to)*

*(Question, that the words to be inserted in place  
thereof be inserted, put and agreed to)*

*(Provisions relating to Health Records and Information Managers Act,  
Section 7(1)(a) as amended agreed to)*

*(Section 7(1) (b) agreed to)*

*Health Records and Information Managers Act, Section 7(1) (c)*

**Hon. (Ms.) Sabina Chege** (Murang'a, JP): Hon. Temporary Deputy Chairman, I beg to move:

THAT, the Schedule to the Bill be amended -

(d) by deleting the proposed amendment to section 7(1)(c) and substituting therefor the following new amendment—

s. 7(1)(c) Delete and substitute therefor the following new paragraph—

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

This was to provide clarity with regard to the university that may nominate members to the board. Those are the universities offering training in health records and information technology. The Bill, as drafted, allows for a representative of any training college or university and they had not limited this to the universities offering the training.

*(Question of the amendment proposed)*

*(Question, that the words to be left out be left out,  
put and agreed to)*

*(Question, that the words to be inserted in place thereof  
be inserted, put and agreed to)*

*(Provisions relating to Health Records and Information Managers Act,  
Section 7(1)(c) as amended agreed to)*

*(Sections 7(1)(d) and 7 (1)(e) agreed to)*

*Health Records and Information Managers Act, Section 7(1)(f)*

**Hon. (Ms.) Sabina Chege** (Murang'a CWR, JP): Hon. Chairman, I beg to move:

THAT, the Schedule to the Bill be amended —

(e) deleting the proposed amendment to section 7(1)(f);

It seeks to ensure that the Secretary-General of the association, as currently provided for in the Act, is retained in the Board.

*(Question of the amendment proposed)*

*(Question, that the words to be left out be left out,  
put and agreed to)*

*(Provisions relating to Health Records and Information Managers Act,  
Proposed amendment deleted)*

*(Section 7(1)(f) agreed to)*

*(Section 7(1)(g) agreed to)*

*Health Records and Information Managers Act, Section 7(1)(h)*

**Hon. (Ms.) Sabina Chege** (Murang'a CWR, JP): Hon. Chairman, I beg to move:

THAT, the Schedule to the Bill be amended—

(f) by deleting the proposed amendment to section 7(1)(h);

It seeks to ensure that one person is co-opted in the Board whenever necessary, as currently provided in the Act. He or she is to be retained in the Board.

*(Question of the amendment proposed)*

*(Question, that the words to be left out be left out,  
put and agreed to)*

*(Provisions relating to Health Records and Information Managers Act,  
Proposed amendment deleted)*

*Section 7(1)(h) agreed to*

*Health Records and Information Managers Act, Section 7(3)*

**Hon. (Ms.) Sabina Chege** (Murang'a CWR, JP): Hon. Chairman, I beg to move:

THAT, the Schedule to the Bill be amended—

(g) by inserting the following new amendment immediately before the proposed amendment to section 7(3)—

s. 7(2) Delete and substitute therefor the following new subsection—

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

(h) in the proposed amendment to section 7(3), by inserting the words “but may establish such other ad hoc committees as may be necessary for the carrying out of the functions of the Board” immediately after the word “functions”;

The amendment seeks to provide additional functions of the Registrar who shall also be the CEO and the Secretary to the board.

*(Question of the amendment proposed)*

*(Question, that the words to be inserted be inserted,  
put and agreed to)*

*(Provisions relating to Health Records and Information Managers Act,  
Section 7(3) as amended agreed to)*

*Health Records and Information Managers Act, Section 7(4)*

**The Temporary Deputy Chairman** (Hon. Patrick Mariru): Hon. Chair.

**Hon. (Ms.) Sabina Chege** (Murang'a CWR, JP): Hon. Temporary Deputy Chairman, I beg to move:

THAT, the Schedule to the Bill be amended—

(i) by inserting the following new amendment immediately after the proposed new subsection 7(4)—

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

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

This amendment seeks to ensure that the nominating organisation has a say about the persons to be appointed in the Board. So, each nominating organisation shall forward two names from each category to the CS who shall then appoint one person and ensure regional and gender balance.

*(Question of the amendment proposed)*

*(Question, that the words to be inserted be inserted,  
put and agreed to)*

*(Provisions relating to Health Records and Information Managers Act,  
Section 7(4) as amended agreed to)*

*(Section 15(1)(a) agreed to)*

*Health Records and Information Managers Act, Section 19(1)*

**The Temporary Deputy Chairman** (Hon. Patrick Mariru): Hon. Chair.

**Hon. (Ms.) Sabina Chege** (Murang'a CWR, JP): Hon. Temporary Deputy Chairman, I beg to move:

THAT, the Schedule to the Bill be amended—

(k) in the proposed amendment to section 19(1), by inserting the words “or the Technical and Vocational Education and Training Act” immediately after the words “Universities Act” appearing in the proviso.

This amendment seeks to expand the scope of training recognised under the Act to include those under technical and vocational education training.

*(Question of the amendment proposed)*

*(Question, that the words to be inserted be inserted,  
put and agreed to)*

*(Provisions relating to Health Records and Information Managers Act,  
Section 19(1) as amended agreed to)*

*Health Records and Information Managers Act, Section 21(3)*

**The Temporary Deputy Chairman** (Hon. Patrick Mariru): Hon. Chair.

**Hon. (Ms.) Sabina Chege** (Murang'a CWR, JP): Hon. Temporary Deputy Chairman, I beg to move:

THAT, the Schedule to the Bill be amended—

(l) by deleting the proposed amendment to section 21(3).

This amendment seeks to retain the current provision in the Act which prohibits the employment of a person in a health records and information management department if he or she is not registered under the Act.

*(Question of the amendment proposed)*

*(Question, that the words to be left out be left out,  
put and agreed to)*

*(Provisions relating to Health Records and Information Managers Act,  
proposed amendment deleted)*

*(Section 21(3) agreed to)*

*Health Records and Information Managers Act, Section 24(6)*

**The Temporary Deputy Chairman** (Hon. Patrick Mariru): Hon. Chair.

**Hon. (Ms.) Sabina Chege** (Murang'a CWR, JP): Hon. Temporary Deputy Chairman, I beg to move:

THAT, the Schedule to the Bill be amended—

(m) by deleting the proposed amendment to section 24(6).

This amendment seeks to provide for areas of practising. They are now adequately covered under the definition of the term “manager”.

*(Question of the amendment proposed)*

*(Question, that the words to be left out  
be left out, put and agreed to)*

*(Provisions relating to Health Records and Information Managers Act,  
Proposed amendment deleted)*

*(Section 24(6) agreed to)*

*Health Records and Information Managers Act, New Section 7(2)*

**The Temporary Deputy Chairman** (Hon. Patrick Mariru): Chair, move Second Reading of New Section 7(2).

**Hon. (Ms.) Sabina Chege** (Murang'a CWR, JP): Hon. Temporary Deputy Chairman, I beg to move:

THAT, the Schedule to the Bill be amended -

(g) by inserting the following new amendment immediately before the proposed amendment to section 7(3)–

s. 7(2) Delete and substitute therefor the following new subsection–

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

This is the position of the registrar who is also the CEO. This one is to provide additional functions of the CEO to the Board.

*(Question of the new section proposed)*

*(New section read the First Time)*

*(Question, that the new section be read a Second Time, proposed)*

*(Question, that the new section be read a Second Time, put and agreed to)*

*(The new section was read a second time)*

*(Question, that the new section be added to the Schedule to the Bill, put and agreed to)*

*Health Records and Information Managers Act, New Section 7(5)*

**The Temporary Deputy Chairman** (Hon. Patrick Mariru): Chair, move Second Reading of New Section 7(5).

**Hon. (Ms.) Sabina Chege** (Murang'a CWR, JP): Hon. Temporary Deputy Chairman, I beg to move:

THAT, the Schedule to the Bill be amended—

(i) by inserting the following new amendment immediately after the proposed new subsection 7(4)–

New subsection Insert the following new subsection immediately after subsection (4)–

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

This is the amendment that is ensuring the nominating organisation will have a say in the persons to be appointed in the board.

*(Question of the new section proposed)*

*(New section read the First Time)*



*(Question, that the new section be read a Second Time, proposed)*

*(Question, that the new section be read a Second Time, put and agreed to)*

*(The new section was read a second time)*

*(Question, that the new section be added to the Schedule to the Bill, put and agreed to)*

*Health Records and Information Managers Act, New Section 9*

**Hon. (Ms.) Sabina Chege** (Murang'a CWR, JP): Hon. Temporary Deputy Chairman, I beg to move:

THAT, the Schedule to the Bill be amended—

(j) by inserting the following new amendments immediately before the proposed amendment to section 15(1)(a)—

s.9 Delete subsection (1).

This is a deletion. It is necessary to delete this subsection which is no longer applicable since the provisions for the appointment of the chairperson are contained in the new section 7(1)(a).

*(Question of the new section proposed)*

*(New section read the First Time)*

*(Question, that the new section be read a Second Time, proposed)*

*(Question, that the new section be read a Second Time, put and agreed to)*

*(The new section was read a second time)*

*(Question, that the new section be added to the Schedule to the Bill, put and agreed to)*

CLINICAL OFFICERS (TRAINING, REGISTRATION AND LICENSING) ACT, NO. 20 OF 2017

**The Temporary Deputy Chairman** (Hon. Patrick Mariru): Hon. Members, we are dealing with the Clinical Officers (Training, Registration and Licensing) Act, 2017 No.20 of 2017.

*(Section 2 agreed to)*

*Clinical Officers (Training, Registration and Licensing) Act, Section 4 (1)*

**Hon. (Ms.) Sabina Chege** (Murang'a, JP): Hon. Temporary Deputy Chairman, I beg to move:

THAT, in the proposed amendments to the Clinical Officers (Training, Registration and Licensing) Act, No.20 of 2017, the Schedule of the Bill be amended—

(a) by deleting the proposed amendments to Section 4 (1) and substituting therefor the following new amendment –

s. 4 (1) Delete and substitute therefor the following new sub-section –

(1) The Council shall consist of the following persons –

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

(i) a relevant bachelors' degree from a recognised university; and,

(ii) at least ten years' relevant experience;

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

(c) the Chief Clinical Officer;

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

(e) one clinical officer representing the Kenya Clinical Officers Association who shall be nominated by the Association and appointed by the Cabinet Secretary;

(f) two clinical officers representing universities training clinical officers elected amongst the teaching staff;

(g) the Registrar who shall be *ex-officio* member and secretary to the Council;

(h) two clinical officers, one in public practice and the other in private practice from each gender nominated by the Cabinet Secretary;

(i) one person with knowledge and expertise in finance or audit appointed by the Cabinet Secretary; and,

(j) one person representing the public nominated by consumer organisations and appointed by the Cabinet Secretary.

This amendment serves to reconstitute the Council as well as to provide qualifications for the appointment of a Chairperson of the Council. The amendment also serves to ensure that the Council is composed of members from all the relevant sectors related to the profession of clinical officers.

*(Question of the amendment proposed)*

*(Question, that the words to be left out be left out, put and agreed to)*

*(Question, that the words to be inserted in place thereof be inserted, put and agreed to)*

*(Provisions relating to Clinical Officers (Training, Registration and Licensing) Act, Section 4 (1) as amended agreed to)*

*Clinical Officers (Training, Registration and Licensing) Act, Section 4(5)*

**Hon. (Ms.) Sabina Chege** (Murang'a, JP): Hon. Temporary Deputy Chairman, I beg to move:

THAT, the Schedule to the Bill be amended -

(b) by deleting the proposed new sub-section (5) in Section 4.

This amendment is necessary since provisions related to the appointment of the chairperson are now covered in the new Section 4 (1) (a).

*(Question of the amendment proposed)*

*(Question, that the words to be left out be left out, put and agreed to)*

*(Provisions relating to Clinical Officers (Training, Registration and Licensing) Act, Section 4 (5) as amended agreed to)*

*Clinical Officers (Training, Registration and Licensing) Act, Section 15 (1)*

**Hon. (Ms.) Sabina Chege** (Murang'a, JP): Hon. Temporary Deputy Chairman, I beg to move:

THAT, the Schedule to the Bill be amended –

(c) in the proposed amendment to Section 15(1) by deleting the proposed new sub-section (1A) and substituting therefor the following new sub-section—

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

- (a) holds a bachelors' degree from a university recognised in Kenya;
- (b) has at least fifteen years' experience; and,
- (c) is registered as a clinical officer under this Act.

The amendment serves to provide in clear terms that the academic qualifications for the Registrar shall be a bachelors' degree as well as to introduce an additional requirement of 15 years' experience.

*(Question of the amendment proposed)*

*(Question, that the words to be left out be left out, put and agreed to)*

*(Question, that the words to be inserted in place thereof be inserted, put and agreed to)*

*(Provisions relating to Clinical Officers (Training, Registration and Licensing) Act,  
Section 15 (1) as amended agreed to)*

*Clinical Officers (Training, Registration and Licensing) Act, Section 15 (6)*

**Hon. (Ms.) Sabina Chege** (Murang'a, JP): Hon. Temporary Deputy Chairman, I beg to move:

THAT, the Schedule to the Bill be amended -

(d) by deleting the proposed amendment to Section 15 (6) and substituting therefor the following new amendment –

s.15(6)(a) Insert the words “and in the official Council website” immediately after the word “Gazette”.

This amendment seeks to introduce an additional requirement that the Registrar must publish the names of registered clinical officers both in the Gazette and in the official Council's website. This is to facilitate easy access to information by anyone requiring it.

*(Question of the amendment proposed)*

*(Question, that the words to be left out  
be left out, put and agreed to)*

*(Question, that the words to be inserted in place  
thereof be inserted, put and agreed to)*

*(Provisions relating to Clinical Officers (Training, Registration and Licensing) Act,  
Section 15 (6) as amended agreed to)*

*Clinical Officers (Training, Registration and Licensing) Act, Part IV*

**The Temporary Deputy Chairman** (Hon. Patrick Mariru): Hon. Chair.

**Hon. (Ms.) Sabina Chege** (Murang'a, JP): Hon. Temporary Deputy Chairman, I beg to move:

THAT, the Schedule to the Bill be amended -

(e) in the proposed amendment to the title to Part IV, by deleting the word “PRIVATE”;

The amendment seeks to ensure that Part IV of the Act has the correct title since it contains provisions related to all forms of practice whether public or private.

*(Question of the amendment proposed)*

*(Question, that the word to be left out  
be left out, put and agreed to)*

*(Provisions relating to Clinical Officers (Training, Registration and Licensing) Act,  
Part IV as amended agreed to)*

**Hon. (Ms.) Odhiambo-Mabona** (Suba North, ODM): On a point of order, Hon. Temporary Deputy Chairman.

**The Temporary Deputy Chairman** (Hon. Patrick Mariru): What is your point of order, Hon. Millie Odhiambo?

**Hon. (Ms.) Odhiambo-Mabona** (Suba North, ODM): Thank you, Hon. Temporary Deputy Chairman. Hon. Sabina Chege has moved 4(e) which talks about the Part IV. We are moving straight to (g). I do not know what we intend to do with (f). We have jumped from (e) to (g). We are on page 1419. The only thing she has moved is the title to Part IV and there is (f) and (g). Hon. Temporary Deputy Chairman, can we, please, have direction? The only thing she moved and spoke to was the title which is in (e). I do not know whether we are together, Hon. Temporary Deputy Chairman. It is on page 1419 on the Order Paper.

**The Temporary Deputy Chairman** (Hon. Patrick Mariru): Hon. Millie, to get it very clearly, Part IV that the Hon. Chair moved is under (e) but we are going to Section 20 which addresses (f).

**Hon. (Ms.) Odhiambo-Mabona** (Suba North, ODM): I have been very alert.

**The Temporary Deputy Chairman** (Hon. Patrick Mariru): Section 20 which we are now going to speaks to (f).

**Hon. (Ms.) Odhiambo-Mabona** (Suba North, ODM): Thank you, Hon. Temporary Deputy Chairman. Maybe, for purposes of the future, I encourage that we do what we have done in the past, especially when we have new clauses. They should come towards the end. We now have a mix of things; new clauses and sections. It gets a bit confusing. We need to solve that for the future.

**The Temporary Deputy Chairman** (Hon. Patrick Mariru): Hon. Chair.

*Clinical Officers (Training, Registration and Licensing) Act, Section 20(i)*

**Hon. (Ms.) Sabina Chege** (Murang'a, JP): Hon. Temporary Deputy Chairman, I beg to move:

THAT, the Schedule to the Bill be amended –

(f) in the proposed amendment to section 20–

(i) by deleting the word “private” appearing in the proposed new subsection

(8) and substituting therefor the word “any”;

The amendment seeks to ensure that both public and private premises are covered by this sub-section.

**Hon. (Ms.) Sabina Chege** (Murang'a CWR, JP): Hon. Temporary Deputy Chairman, do you want to put a Question to that?

*(Question of the amendment proposed)*

*(Question, that the word to be left out  
be left out, put and agreed to)*

*(Question, that the word to be inserted in place thereof  
be inserted, put and agreed to)*

*Clinical Officers (Training, Registration and Licensing) Act, Section 20(ii)*

**Hon. (Ms.) Sabina Chege** (Murang'a, JP): Hon. Temporary Deputy Chairman, I beg to move:

THAT, the Schedule to the Bill be amended -

(ii) by deleting the word "invasive" appearing in subsection (9)(e);

This is necessary to eliminate any ambiguities that may arise in the interpretation of the subsection. Invasive procedures may be interpreted to mean surgeries which the clinical officers are not licensed to undertake.

*(Question of the amendment proposed)*

**The Temporary Deputy Chairman** (Hon. Patrick Mariru): Hon. Owino.

**Hon. Martin Owino** (Ndhiwa, ODM): Hon. Temporary Deputy Chairman, in the Bill, we had said clearly that licensed clinical officers can examine, diagnose, order laboratory, prescribe treatment, as well as perform invasive procedures according to their scope of training. By deleting that, it will mean that those important cadres in the implementation of the Universal Health Care (UHC) will not be able to do cataract removal, ENT, anaesthesia, C-sections and many others. This is misplaced. It was stated well in the Bill and it should remain that way.

**Hon. (Dr.) Robert Pukose** (Endebess, ODM): Hon. Temporary Deputy Chairman, I support the Committee in its proposal to remove "invasive" and leave "procedures". When we talk of invasive procedures, it means you are opening up somebody and doing some operations. When we say "procedure", we give them a leeway. For example, there are clinical officers who have done cataract surgery and they are able to do whatever is outside the eye but they cannot go inside. If they go inside the eye, it becomes invasive. That is an ophthalmologist speciality.

I do not want people to get this wrongly. For you to be a medical doctor, you have to do anatomy. You have to dissect a dead body. A clinical officer does not dissect a dead body. We do not want to expose Kenyans to health risks. When we say you are a surgeon, it means you have done anatomy. Basically, you have dissected the human body during your studies for a basic degree. When you do your masters, you must again do anatomy in order to become good. You may then be allowed to operate on a human being. When we say we want to allow them to do procedures... Even if a clinical officer trains to do obstetrics or gynaecology, he or she can only assist in evacuation, say, when a mother with a retained placenta or incomplete abortion comes to hospital. A clinical officer cannot do caesarean section. It is not possible. We should not expose Kenyans to health risks.

**The Temporary Deputy Chairman** (Hon. Patrick Mariru): Very well. Let me give a chance to one of the Members here. Hon. Onyonka, I am sure you want Hon. Millie Odhiambo to start.

**Hon. (Ms.) Odhiambo-Mabona** (Suba North, ODM): Hon. Temporary Deputy Chairman, I stand to oppose for the reasons given by Hon. (Dr.) Robert Pukose. The reason is that there is a difference between what we say and what appears in the law. When we define the way he has defined, we are defining it here on the air. It is not law. In fact, when he talks about evacuation, my English understanding is that it is invasive. A lot of reproductive procedures are that.

*(Hon. (Dr.) Robert Pukose spoke off record)*

**Hon. (Ms.) Odhiambo-Mabona** (Suba North, ODM): No, I am telling you from my English understanding, not medical. When you will be interpreting the law, the first rule of interpretation is the plain English meaning, not medical meaning. It is plain English meaning. So, when you talk about invasion, what I would have encouraged the medical people to do is to provide exclusion. Chair, please understand us instead of lobbying. I want you as a lawyer to listen to me. The best way you should have done this is exclusion. What you would have done by exclusion, because we also want our patients to be safe, is to provide that certain practitioners shall be excluded from performing surgeries. Why can we not just provide that? When we talk about invasion and say “invasion that excludes”...

*(Hon. (Dr.) Robert Pukose spoke off record)*

**Hon. (Ms.) Odhiambo-Mabona** (Suba North, ODM): Yes. We agree that they cannot do surgery.

**The Temporary Deputy Chairman** (Hon. Patrick Mariru): Proceed, Hon. Millie.

**Hon. (Ms.) Odhiambo-Mabona** (Suba North, ODM): But, when you talk about “invasive”, it is what I am telling the Chair. Even if they wanted to say “invasive” as per what they are talking about, then they should have included it in the definition section. Chair, I want you to listen to me even if you disagree with me. You should have provided what “invasion” means in the definition section. Otherwise, even if you defeat this, procedure means much. What is procedure? Even a surgery is a procedure.

**Hon. Aden Duale** (Garissa Township, JP) *(Off-record)*

**Hon. (Ms.) Odhiambo-Mabona** (Suba North, ODM): No! It is not by medics. It is lawyers who interpret, not the medical people. So, let the Leader of the Majority Party stop misleading us here.

**The Temporary Deputy Chairman** (Hon. Patrick Mariru): Very well. I will still give more chances on this one. We had said two persons for the others, but I will give a chance to one or two other Members. I will come to you Hon. Onyonka after giving the Leader of the Majority Party.

**Hon. Aden Duale** (Garissa Township, JP): Let us deal with this matter when we are very sober. We should have no interest. I want the medical doctors to listen to me. The amendment is on my Bill. So, the Committee is amending a provision in the Bill. I am convinced as the Mover. Why do we have this amalgamation of these health laws? As we prepare our people for a

universal healthcare, we must make sure there is safety and standard, particularly in the rural areas. We do not want anything else.

**Hon. (Ms.) Odhiambo-Mabona** (Suba North, ODM) (*Off-record*)

**Hon. Aden Duale** (Garissa Township, JP): You listen to me! I have listened to you!

*(Loud consultations)*

Hon. Onyonka, you have to listen. Relax. I will speak whether you like it or not. I have the right.

**The Temporary Deputy Chairman** (Hon. Patrick Mariru): Hon. Leader of the Majority Party proceed because you have the Floor. Please proceed.

**Hon. Aden Duale** (Garissa Township, JP): I have the Floor and you have no choice but to listen to me. It is late in the night.

**The Temporary Deputy Chairman** (Hon. Patrick Mariru): Please proceed. Hon. Leader of the Majority Party proceed! You have the Floor. We will give other persons.

**Hon. Aden Duale** (Garissa Township, JP): There is no need of being an irritant. I come from a background where I do not deal with hecklers in the house. You are heckling. I deal with very respectable women.

**The Temporary Deputy Chairman** (Hon. Patrick Mariru): Order, Leader of the Majority Party. Please utilise your space. You have the Floor. Prosecute your case so that we can get to the next person.

**Hon. Aden Duale** (Garissa Township, JP): Oooh! I have very respectable women in my home. A clinical officer...

**Hon. (Ms.) Odhiambo-Mabona** (Suba North, ODM): On a point of order. We do not need respectable women. We just need women who can take on men.

**The Temporary Deputy Chairman** (Hon. Patrick Mariru): The Leader of the Majority Party, please, take your space and prosecute your case so that we can go to the next person.

**Hon. Aden Duale** (Garissa Township, JP): A clinical officer licensed under this Act may, with the respect to patients, do an examination, do diagnostics, order laboratory and emerging investigations, prescribe treatment and above all, perform procedures. We know in medical term what procedures mean. I am not a medical doctor, but they can perform small procedures. For you to do invasive procedures, you must listen to what the surgeon has said. You must have specialised training. That is why we have issues in the rural parts where deaths occur because of professional negligence. This law wants to deal with that. I support and, as the Mover has proposed, I think we must remove the word 'invasive'.

Let me declare that clinical officers, some of them even from my constituency, were texting me. I do not succumb to that. I follow the law in making laws. I do not act for anybody here.

**The Temporary Deputy Chairman** (Hon. Patrick Mariru): Hon. Onyonka, I know there is a doctor in the name of Hon. Nyikal. Be brief so that we prosecute this matter briefly and move on.

**Hon. Richard Onyonka** (Kitutu Chache South, FORD-K): I will be very brief. Hon. Temporary Deputy Chair, I would want to raise a very simple issue on record. The Leader of the Majority Party needs to consider that when we are in this House, we cannot be passing laws under any intimidation or prejudice. It must be debated and discussed on merit. If you look at the description of what an invasive procedure is - and Dr. Nyikal and many other doctors are



here... Currently in the Kenyan medical field, the law allows a clinical officer who has done a diploma to actually conduct an invasive procedure. The reason why we have been having the issue of clinical officers who have diplomas conducting those procedures is this: We do not have enough doctors to do those procedures. That is why we are getting doctors from Cuba.

Secondly, an invasive procedure, for example, involves suturing. It is an invasive procedure. If somebody breaks their leg, before the doctor can come, the clinical officer can actually handle the fracture. Right now, in the health centers I have in my place, they are actually doing that right now. The reason we are having problems with the medical fraternity and malpractices is because of training and lack of facilities. What I am saying is simple. Let us not prejudice the diploma holders. Let us not prejudice our nurses. Let us give them exclusivity and be clear on what they can do. If you make a blanket law which says they cannot have any procedures which are invasive, it is going to be unfair to our professions.

**The Temporary Deputy Chairman** (Hon. Patrick Mariru): We have two quick ones. Hon. Nyikal, then one more, then we make progress.

**Hon. (Dr.) James Nyikal** (Seme, ODM): You know since I became a politician, I have learnt not to be emotional sometimes. We are fighting a war that does not exist. What invasive is doing, is actually limiting what the clinical officers will do. Procedures include suturing. My position would have been: Do procedures as per your training, then leave out the word “invasive”. It is the word “invasive” that is giving us problems. If we pass this with the word “invasive: there, then the next thing we are going to do is this: We are going to put a list. But if you say do procedures as per your training, everything is involved. I am not pre-empting debate but the next that I would have opposed is speciality. I would say: Do the procedures as per your training and speciality. Why are we putting words like “invasive”? So, in my opinion, we should leave out the word invasive and leave the clinical officers free to do everything they want to do according to their training.

**The Temporary Deputy Chairman** (Hon. Patrick Mariru): We have to bring this to some closure. Hon. Rasso.

**Hon. Ali Rasso** (Saku, JP): Thank you, Hon. Temporary Deputy Chairman. I want to support the amendment. The laws that we make are not for the elites but for the commoners. When we are prescriptive in the laws that we pass, we make a big mistake. I think the medical practitioners live in strata. It is known what surgeons, clinical officers and nurses do. For us to sit here and try to prescribe is a big mistake. When we say a clinical officer should do this but should not do invasive, basically we are saying they do everything but not surgery. If that is not what his profession calls him to do, then what law are we trying to prescribe here? Anything that we pass in this law, let us not allow even a single word that is going to cause confusion to pass.

**The Temporary Deputy Chairman** (Hon. Patrick Mariru): Finally Chair.

**Hon. (Ms.) Sabina Chege** (Murang’a CWR, JP): Thank you, Hon. Temporary Deputy Chairman. I am glad Members have a lot of enthusiasm about this issue. I want to make it very clear that this provision is going to read this way:

A clinical officer licensed under this Act may with respect to patient—

- (a) examine;
- (b) diagnose;
- (c) order laboratory image investigation;
- (d) prescribe treatment; and,
- (e) perform procedures as per their scope of training and speciality.

That is how it is going to read.

*(Loud consultations)*

**The Temporary Deputy Chairman** (Hon. Patrick Mariru): I have to put the Question. We must make progress, Hon. Millie Odhiambo, please take 30 seconds so that we can move.

**Hon. (Ms.) Odhiambo-Mabona** (Suba North, ODM): Hon. Temporary Deputy Chairman, I just wanted to say that if speciality is there, it is okay. I just wanted to throw in a word of caution. There is something Hon. Nyikal has said that we should take seriously: leaving the word “procedure” without a definition. As a lawyer, I can tell you that it is even worse than the invasive that we are running away from.

*(Question, that the word to be left out  
be left out, put and agreed to)*

*Clinical Officers (Training, Registration and Licensing) Act, Section 20(iii)*

**The Temporary Deputy Chairman** (Hon. Patrick Mariru): Speak to Sub-section (iii).

**Hon. (Ms.) Sabina Chege** (Murang’a CWR, JP): Hon. Temporary Deputy Chairman, if we were to delete “and speciality”... I propose to withdraw. When we say “perform procedures as per their scope of training and speciality” we end it there. Again, I want to tell Dr. Nyikal that it is not just procedures, it is procedures as per their scope of training and speciality. So, I withdraw the amendment that seeks to delete “speciality”.

**The Temporary Deputy Chairman** (Hon. Patrick Mariru): That is considered withdrawn.

*(The proposed amendment to Section 20 (iii) by Hon. (Ms.) Sabina Chege withdrawn)*

Hon. Pukose, you had an amendment to Section 20 as well.

**Hon. Robert Pukose** (Endebess, JP): Thank you, Hon. Temporary Deputy Chairman. I have the same amendment which has been moved by the Committee and which I agree with. I just want to make a statement that in a hospital, there is an order in which patients are looked at, treated and operated. You cannot just come and say the law allows you to do it when you are not trained and certified to do that. There is a limit and that is why we have the Kenya Medical Practitioners and Dentists Board to rein in those who would want to practise out of what they have not been trained on.

**The Temporary Deputy Chairman** (Hon. Patrick Mariru): So, you drop your amendment?

**Hon. (Dr.) Robert Pukose** (Endebess, JP): Yes I agree with the Committee.

*(Proposed amendment by Hon. (Dr.) Pukose withdrawn)*

*Provisions relating to Clinical Officers (Training, Registration and Licensing) Act,  
Section 20 as amended agreed to)*

*(Section 34 agreed to)*

*Clinical Officers (Training, Registration and Licensing) Act, New Section 23 A*

**Hon. (Ms.) Sabina Chege** (Murang'a CWR, JP): Hon. Temporary Deputy Chairman, I beg to move:

THAT, the Schedule to the Bill be amended -

(g) by inserting the following new amendment immediately after the proposed amendment to section 20—

New section      Insert the following new section immediately after section 23—  
Professional

indemnity      23A. Every clinical officer 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.

The amendment seeks to introduce the requirement of professional indemnity to be undertaken by clinical officers as well as health institutions which is necessary in case of professional negligence.

*(Question of the new section proposed)*

*(New section read the First Time)*

*(Question, that the new section be read a Second Time, proposed)*

*(Question, that the new section be read a Second Time, put and agreed to)*

*(The new section was read a second time)*

*(Question, that the new section be added to the Schedule to the Bill, put and agreed to)*

**The Temporary Deputy Chairman** (Hon. Patrick Mariru): Hon. Members, yesterday on this particular law on Pharmacy and Poisons Act. Cap 244, we did the proposed amendments, but we did not deal with new sections. Usually, you finish with the sections that need amendments and those that do not need amendments and then towards the end, you deal with the new sections, as

Hon. Millie Odhiambo mentioned earlier. So, we will go back to that Pharmacy and Poisons Act. Cap. 244. There are five new sections.

PHARMACY AND POISONS ACT, CAP. 244

We are on page 1395. Hon. Chair, we will later on go to New Sections 9A, B, C, D, E, and F. But, we are now dealing with New Section 8(2). You can take a few seconds to consult.

*Pharmacy and Poisons Act, Cap.244, New Section 8(2)*

**Hon. (Ms.) Sabina Chege** (Murang'a CWR, JP): Hon. Temporary Deputy Chairman, I beg to move:

THAT, the Schedule to the Bill be amended –

(g) by inserting the following new amendment immediately after the proposed amendment to section 6(1) -

s. 8(2) Delete subsection (2) and substitute therefor the following new subsection–

“(2) Any person who satisfies the Board that he holds a diploma in pharmacy from any college recognised by the Board in Kenya shall, subject to this Act, be entitled to have his or her name entered in the register.

This amendment will correct an error in the subsection. The Board, in regulating the pharmacy profession, will recognise institutions offering courses in pharmacy that meet the minimum standards set by it to offer degree or diploma in pharmacy. Instead, the new subsection will now provide that a holder of diploma from a college approved by the Board shall be entitled to be registered.

*(Question of the new section proposed)*

*(New section read the First Time)*

*(Question, that the new section be read a Second Time, proposed)*

*(Question, that the new section be read a Second Time, put and agreed to)*

*(The new section was read a second time)*

*(Question, that the new section be added to the Schedule to the Bill, put and agreed to)*

*Pharmacy and Poisons Act, Cap.244, New Sections 9A, B, C, D, E and F*

**The Temporary Deputy Chairman** (Hon. Patrick Mariru)

**Hon. (Ms.) Sabina Chege** (Murang'a CWR, JP): Hon. Temporary Deputy Chairman, I beg to move:

THAT, the Schedule to the Bill be amended –

(h) by inserting the following new amendment immediately after the proposed new amendment to section 8(2)–

New section  
n

Insert the following new sections immediately after section 9–

Practising license.

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

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

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

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

Application for practising license.

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

Issue of practising license.

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

(a) is registered under section 6 of this Act;

(b) has undertaken continuous professional development in the preceding year as prescribed by the Board; and

(c) meets such other requirements as may be prescribed.

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

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

(1) For purposes of this Act, it shall be a requirement for every practising pharmacist and pharmaceutical technologist, practicing in their private capacity, government, faith based institutions, non-governmental organisations, training institutions, research organisations or any other institution, to have a valid practising license.

Refusal to  
issue or  
renew a  
license.

9D. The Board may deny or refuse to issue or renew a license under this Act if it determines after due process, that the applicant has failed to comply with the requirements of this Act or its rules.

Renewal,  
cancellation  
and  
suspension  
of license.

9E. (1) A pharmacist or pharmaceutical technologist issued with a license under this Act may apply for renewal of the license in the prescribed form at least thirty days before the date of expiry thereof.

(2) A pharmacist or pharmaceutical technologist who fails to renew a license within the prescribed period shall, when applying for a renewal, be required to pay such late application fee as shall be prescribed.

Continuous  
professional  
development.

9F. For purposes of maintaining a level of competence in his or her ongoing practice, every pharmacist and pharmaceutical technologist shall undertake appropriate Continuous Professional Development as prescribed by the Board.

These proposed new sections will provide for the procedure for application and grant of licenses to practise pharmacy as well as conditions for grant and refusal. This amendment also

makes provision for the requirement of all licensees to undertake continuous professional development. These procedures are currently not outlined in the Act.

*(Question of the new sections proposed)*

*(New sections read the First Time)*

*(Question, that the new sections be read a Second Time, proposed)*

*(Question, that the new sections be read a Second Time, put and agreed to)*

*(The new sections were read a second time)*

*(Question, that the new sections be added to the Schedule to the Bill, put and agreed to)*

*Pharmacy and Poisons Act, Cap.244, New Section 12A*

**Hon. (Ms.) Sabina Chege** (Murang'a CWR, JP): Hon. Temporary Deputy Chairman, I beg to move:

THAT, the Schedule to the Bill be amended –

(i) by inserting the following new amendment immediately after the proposed new section 9F–

New section Insert the following new section immediately after section 12–

section

Enquiries and  
Disciplinary  
Committee.

12A. (1) The Board shall establish an Enquiries and Disciplinary Committee which shall enquire into any matter arising under section 12 of this Act.

(2) Where on the recommendations of the Enquiries and Disciplinary Committee the Board is satisfied that a pharmacist or pharmaceutical technologist is in breach of any of the terms or conditions of practice prescribed by the Board, the Board may–

- (a) issue the pharmacist or pharmaceutical technologist with a letter of admonishment;
- (b) impose a fine as may be prescribed in regulations;
- (c) suspend the registration or enrolment of the pharmacist or pharmaceutical technologist for a specified period not exceeding five years; or
- (d) remove the name of the pharmacist or pharmaceutical technologist from the Register as may be appropriate.

(3) The Board may order a pharmacist or pharmaceutical technologist to reimburse costs and expenses incurred in connection with a disciplinary hearing and such

costs shall be a civil debt recoverable summarily by the Board.

The Committee's amendment to this section seeks to strengthen the mandate of the board with regard to enforcement of discipline among the pharmacists and pharmaceutical technologists administratively. It provides for the establishment of a disciplinary committee to handle all disciplinary matters of persons licenced and registered under the Act. This is a standard provision for a professional body to provide for disciplinary mechanism for cases of professional misconduct.

*(Question of the new section proposed)*

*(New section read the First Time)*

*(Question, that the new section be read a Second Time, proposed)*

*(Question, that the new section be read a Second Time, put and agreed to)*

*(The new section was read a second time)*

*(Question, that the new section be added to the Schedule to the Bill, put and agreed to)*

*Pharmacy and Poisons Act, Cap.244, New Section 24*

**Hon. (Ms.) Sabina Chege** (Murang'a CWR, JP): Hon. Temporary Deputy Chairman, I beg to move;

THAT, the Schedule to the Bill be amended -

(m) by inserting the following new amendment immediately after the proposed new section 23A-

S. 24 Delete the words "a pharmacist" and substitute therefor the words "pharmaceutical practice".

We are deleting the words "a pharmacist" and substituting therefore with the words "pharmaceutical practice". The amendment is for the purpose of correcting grammar which indicates that the business to be carried on is that of pharmaceutical practice and not of a pharmacist. This is also a consequential amendment in line with the Committee's previous proposal.

*(Question of the new section proposed)*

*(New section read the First Time)*

*(Question, that the new section be read a Second Time, proposed)*



*(Question, that the new section be read a Second Time, put and agreed to)*

*(The new section was read a second time)*

*(Question, that the new section be added to the Schedule to the Bill, put and agreed to)*

*Pharmacy and Poisons Act, Cap.244, New Section 40(4)*

**Hon. (Ms.) Sabina Chege** (Murang'a CWR, JP): Hon. Temporary Deputy Chairman, I beg to move:

THAT, the Schedule be amended -

(z) by inserting the following new amendment immediately before the proposed amendment to section 44(1)–

S. 40(4) Delete subsection (4).

Hon. Temporary Deputy Chairman, there is need to delete this subsection as it presents prosecution challenges since the Attorney-General has no specific role to play in enabling prosecution of offences relating to illegal or misleading advertisement of medicinal substances. A deletion of the requirement that the Attorney-General must consent to prosecution under the section of the Act will thus enable the expeditious prosecution of the offences.

*(Question of the new section proposed)*

*(New section read the First Time)*

*(Question, that the new section be read a Second Time, proposed)*

*(Question, that the new section be read a Second Time, put and agreed to)*

*(The new section was read a second time)*

*(Question, that the new section be added to the Schedule to the Bill, put and agreed to)*

**The Temporary Deputy Chairman** (Hon. Patrick Mariru): Hon. Members, we are done with that particular new section on that law. So, we go back to the overall Bill. We are done with all the statutes under the Bill. So, we will now go to clauses that touch on the Bill as a whole.

Let us have the Leader of the Majority Party.

*New Clause 3*

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**Hon. Aden Duale** (Garissa Township, JP): Hon. Temporary Deputy Chairman, I beg to move:

THAT, the Bill be amended by inserting the following new clause immediately after Clause 2 –

Transition

3. At the commencement of this Act, any person who, immediately before the commencement of this Act was a member or staff of any of the boards proposed to be reconstituted under this Act shall be deemed to be a member or staff of the reconstituted board for the unexpired period of his or her term of service.

This amendment is to provide for a transitional mechanism for the boards that are proposed to be reconstituted in this Bill, so that we do not occasion a regulatory *lacuna* in the various professions. It is a transitional clause.

The other reason is that the Act will come into operation immediately upon publication. In essence, that means that all the boards that have been reconstituted by this Act will immediately cease to exist hence occasioning a regulatory gap or *lacuna*. To cure this, it is prudent that there be a balance which allows for a smooth transition. Serving board members whose positions have been transitioned into the new boards will be allowed to continue serving, but only for the unexpired period of their term. The staff who have been employed by those boards also need to be clearly assured of their continuity of service. I am just providing a bridge between the previous law and this one.

*(Question of the new clause proposed)*

*(New clause read the First Time)*

*(Question, that the new clause be read a Second Time, proposed)*

*(Question, that the new clause be read a Second Time, put and agreed to)*

*(The new clause was read a second time)*

*(Question, that the new clause be added to the Bill, put and agreed to)*

*Clause 1*

**The Temporary Deputy Chairman** (Hon. Patrick Mariru): Let us have the Leader of the Majority Party. Yes, you have an amendment as per my record.

**Hon. Aden Duale** (Garissa Township, JP): Yes, Hon. Temporary Deputy Chairman. I was putting my papers in place so that I can go home.

Hon. Temporary Deputy Chairman, I beg to move:

THAT, Clause 1 of the Bill be amended by inserting the words “and shall come into force upon publication” immediately after the words “Health Laws (Amendment) Act, 2018”;

This amendment seeks to have all the provisions contained in the Health Laws (Amendment) Bill come into effect immediately upon publication in the Gazette and not after 14 days of publication. The reason is that Article 116 (2) of the Constitution provides that an Act of Parliament comes into force on the 14<sup>th</sup> day after its publication in the Gazette Notice, unless that Act stipulates a different date or time at which it comes into force. The amendment to Clause 1 of the Bill, therefore, seeks to provide for a different date on which the Act will come into force, which is immediately upon publication in the Gazette.

*(Question of the amendment proposed)*

*(Question, that the words to be inserted  
be inserted, put and agreed to)*

*(Clause 1 as amended agreed to)*

*(Title agreed to)*

**The Temporary Deputy Chairman:** (Hon. Patrick Mariru): Hon. Members, that marks the end of Committee of the whole House.

Let us have the Mover.

**Hon Aden Duale** (Garissa Township, JP): Hon. Temporary Deputy Chairman, I beg to move that the Committee reports to the House its consideration of the Health Laws (Amendment) Bill, (National Assembly Bill No.14 of 2018), and its approval thereof with amendments.

*(Question proposed)*

*(Question put and agreed to)*

*(The House resumed)*

*[The Temporary Deputy Speaker (Hon.  
Christopher Omulele) in the Chair]*

## REPORT AND THIRD READING

**The Temporary Deputy Speaker** (Hon. Christopher Omulele): Hon. Members, I know it is exciting that we have done a lot of work, but let us tighten it up so that it is neat. Let us have the Chairperson.

**Hon. Patrick Mariru** (Laikipia West, JP): Hon. Temporary Deputy Speaker, I beg to report to the House that the Committee of the whole House has considered the Health Laws (Amendment) Bill (National Assembly Bill No.14 of 2018) and approved the same with amendments.

**Hon Aden Duale** (Garissa Township, JP): Hon. Temporary Deputy Speaker, I beg to move that the House doth agree with the House in the said Report.

I request Hon. Nyikal to second the Motion for agreement with the report of the Committee of the whole House.

**Hon. (Dr.) James Nyikal** (Seme, ODM): I second.

*(Question proposed)*

### RECOMITTAL OF CLAUSES

**Hon. (Ms.) Sabina Chege** (Murang'a, CWR, JP): Hon. Temporary Deputy Speaker, I beg to move that the Motion for agreement with the report of the Committee of the whole House be amended by inserting the words, "subject to re-committal of Sections 2 and 3B in the Pharmacy and Poisons Act, Cap.244 and Sections 2, 3A and Section 4 of the Medical Practitioners and Dentists Act, Cap.253 and Sections 11 and the new sub-sections 1 and 4 of the Nurses Act, Cap.257.

I ask Hon. Millie Odhiambo to second.

**Hon. (Ms.) Odhaimbo-Mabona** (Suba North, ODM): Hon. Temporary Deputy Speaker, I beg to second.

*(Question proposed)*

*(Question put and agreed to)*

### COMMITTEE OF THE WHOLE HOUSE

*(Order for Committee read)*

*[The Temporary Deputy Speaker  
(Hon. Christopher Omulele) left the Chair]*

### IN THE COMMITTEE

*[The Temporary Deputy Chairman  
(Hon. Patrick Mariru) took the Chair]*

### RECOMMITAL OF CLAUSES

**The Temporary Deputy Chairman** (Hon. Patrick Mariru): Hon. Members, we are back to the Committee of the whole House particularly to deal with the recommitted sections.

PHARMACY AND POISONS ACT, CAP 244

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*Pharmacy and Poisons Act, Cap. 244, Section 2*

**Hon. (Ms.) Sabina Chege** (Murang'a CWR, JP): Hon. Temporary Deputy Chairman, I beg to move:

THAT, the Schedule to the Bill be amended—

(1) in the proposed amendments to the Pharmacy and Poisons Act, Cap 244—

(a) in section 2, by further amending the proposed amendments by inserting the following new definitions in the proper alphabetical sequence—

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

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

This is a proposed amendment to the Pharmacy and Poisons Act, Cap 244. This is on the terminology “health product” and “health technology”. The amendment seeks to ensure that technical terms that were used in the parent Act are retained and defined.

*(Question of the further amendment proposed)*

*(Question, that the words to be inserted  
be inserted, put and agreed to)*

*(Provisions relating to Pharmacy and Poisons Act, Cap. 244,  
Section 2 as amended agreed to)*

*Pharmacy and Poisons Act, Cap. 244, Section 3B*

**Hon. (Ms.) Sabina Chege** (Murang'a CWR, JP): Hon. Temporary Deputy Chairman, I beg to move:

THAT, the Pharmacy and Poisons Act, Cap 244 be further amended in the proposed new section 3B—

(i) by deleting the proposed amendment to subsection (1);

(ii) by deleting the proposed amendment to subsection (2);

This amendment seeks to retain the current provision as contained in the Bill to provide for the function of the board in the regulation of health products. The definition of the term “health product” is more comprehensive than that of the term “pharmaceutical products”.

*(Question of the further amendment proposed)*

*(Question, that the words to be left out  
be left out, put and agreed to)*

*(Provisions relating to Pharmacy and Poisons Act, Cap. 244,*

*New Section 3B as amended agreed to)*

MEDICAL PRACTITIONERS AND DENTISTS ACT, CAP.253

*Medical Practitioners and Dentists Act, Cap. 253, Section 2*

**Hon. (Ms.) Sabina Chege** (Murang'a CWR, JP): Thank you, Hon. Temporary Deputy Chairman. I beg to move:

THAT, the Schedule to the Bill be further amended –

(a) in section 2 by further amending the proposed amendment by deleting the definition of the term “Council” and substituting therefor the following new definition–

“Council” means the Kenya Medical Practitioners and Dentists Council established under Section 3;

This is the definition of the term “Council”. The amendment is necessary so as to change the name from “the Kenya Medical and Dental Council” to “the Kenya Medical Practitioners and Dentists Council”. This is necessary so as to provide clarity since the Council regulates medical practitioners and dentists.

*(Question of the further amendment proposed)*

*(Question, that the words to be left out  
be left out, put and agreed to)*

*(Question, that the words to be inserted in place  
thereof be inserted, put and agreed)*

*(Provisions relating to the Medical Practitioners and Dentists Act, Cap. 253,  
Section 2 as amended agreed to)*

*Medical Practitioners and Dentists Act, Cap. 253, Section 3*

**Hon. (Ms.) Sabina Chege** (Murang'a CWR, JP): Thank you, Hon. Temporary Deputy Chairman. I beg to move:

THAT, the Schedule to the Bill be amended-

(b) by deleting the proposed new subsection (1) and substituting therefor the following new subsection–

“(1) There is established a Council to be known as the Kenya Medical Practitioners and Dentists Council.”

This is in line with the previous amendments where there is a consequential amendment that ensures that the name of Council changes from “the Kenya Medical and Dental Council” to “the Kenya Medical Practitioners and Dentists Council”.

*(Question of the amendment proposed)*

*(Question, that the words to be left out  
be left out, put and agreed to)*

*(Question, that the words to be inserted in  
place thereof be inserted, put and agreed)*

*(Provisions relating to the Medical Practitioners and Dentists Act, Cap. 253,  
Section 3 as amended agreed to)*

*Medical Practitioners and Dentists Act, Cap. 253, New Section 3A*

**Hon. (Ms.) Sabina Chege** (Murang'a CWR, JP): Thank you, Hon. Temporary Deputy Chairman. I beg to move:

THAT, the Schedule to the Bill be amended -

- (a) In subsection (1) of the proposed new section 3A, by further amending the proposed amendment by deleting the words "with a degree in medicine" appearing in paragraph (i);

This amendment is necessary to remove the error previously providing that the chairperson of the Kenya Medical Practitioners and Dentists Council must be a specialist medical or dental practitioner with a degree in medicine. Since the amendment in Section 2 of the Act now provides for the definition of a specialist medical practitioner or dentist as a person who has completed post-graduate training in medicine or dentistry, it will be sufficient to have the qualification of the chairperson simply as a specialist – a medical or dental practitioner of good standing.

*(Question of the amendment proposed)*

**The Temporary Deputy Chairman** (Hon. Patrick Mariru): Yes, Hon. Nyikal.

**Hon. (Dr.) James Nyikal** (Seme, ODM): I seek further clarification as to what this exactly means.

**The Temporary Deputy Chairman** (Hon. Patrick Mariru): That is what the Chair did.

**Hon. (Dr.) James Nyikal** (Seme, ODM): To me, there is a clear difference when you say "has a degree in medicine or dentistry" as opposed to saying "a medical practitioner of good standing". That is what you are putting in. Read it, please.

**Hon. (Ms.) Sabina Chege** (Murang'a CWR, JP): I have said this amendment is to remove the error previously providing that the chairperson of the Kenya Medical Practitioners and Dentists Council must be a specialist medical or dental practitioner with a degree in medicine. Since the amended Section 2 of the Act now provides for the definition of a specialist medical practitioner or dentist as a person who has completed post-graduate training in medicine or dentistry, it will be sufficient to have the qualification of the chairperson simply as a specialist – a medical or dental practitioner of good standing.

**The Temporary Deputy Chairman** (Hon. Patrick Mariru): Hon. Omulele, finally.

**Hon. Christopher Omulele** (Luanda, ODM): Yes. We had quite a bit of debate on this yesterday. I think we agreed that this would be the neater way to do it. So, she has got it.

*(Question, that the words to be left out  
be left out, put and agreed to)*

*(Provisions relating to the Medical Practitioners and Dentists Act, Cap. 253,  
New Section 3A as amended agreed to)*

**The Temporary Deputy Chairman** (Hon. Patrick Mariru): Hon. Members, for your ease, Section 4 by Hon. Oluoch is on page 1422 in the Order Paper.

*Medical Practitioners and Dentists Act, Cap. 253, Section 4*

**Hon. Anthony Oluoch** (Mathare, ODM): Hon. Temporary Deputy Chairman, I beg to move:

THAT, the Schedule to the Bill be amended -

(a) in the proposed new section 4 by—

(i) deleting paragraph (m) and substituting therefor the following new paragraph—

“(m) regulate health institutions and take disciplinary action for any form of misconduct by a health institution;”

(ii) deleting paragraph (o) and substituting therefor the following new paragraph—

“(o) issue certificate of status to medical and dental practitioners and health institutions;”

The specific provision on the Bill is at Page 606. The functions of the Council are at Section 4, the Kenya Medical Practitioners Council. In particular, Section 4(1) m and o is just for purposes of consistency, so that whenever the council has been donated power to regulate the practitioners... This extends to health institutions. The reason I am saying this is that this has been a subject of contestation in many court cases where health institutions have gotten away with malpractices or negligence on the account of the fact that the council of the previous board did not have powers to discipline them. So, I am seeking to persuade Members that whenever you say that the council can regulate and also discipline, this should be extended to health institutions. I beg to move.

*(Question of the amendment proposed)*

**Hon. (Dr.) James Nyikal** (Seme, ODM): I support this as I congratulate Hon. Oluoch. I remember a case when we put somebody through a disciplinary process and the hospitals declined to give the records and they said they are not under the jurisdiction of the Medical Practitioners and Dentists Board. This is a good amendment, I support it.

*(Question, that the words to be left out be left out,  
put and agreed to)*

*(Question, that the words to be inserted in place thereof  
be inserted, put and agreed to)*



*(Provisions relating to the Medical Practitioners and Dentists Act, Cap. 253,  
Section 4 as amended agreed to)*

NURSES ACT, CAP. 257

*Nurses Act, Cap. 257, New Section 11(6)*

**Hon. (Ms.) Sabina Chege** (Murang'a CWR, JP) Hon. Temporary Deputy Chairman, I beg to move:

THAT, the Schedule to the Bill be amended -

(a) by inserting the following new amendment immediately after the proposed amendment to section 11(5)

s. 11 – insert the following new subsection immediately after subsection (5)

(6) The Chief Executive Officer shall serve for a term of four years and shall be eligible for re-appointment for one further term of four years subject to satisfactory performance.

This is necessary as to provide the tenure of the CEO of the nursing council. The amendment contained in the Bill does not provide clear terms on the duration of the office of the CEO. Therefore, the Committee proposes to have the tenure well provided for in this Act.

*(Question of the new section proposed)*

*(New section read the First Time)*

*(Question, that the new section be  
read a Second Time, proposed)*

*(Question, that the new section be  
read a Second Time, put and agreed to)*

*(The new section was read a second time)*

*(Question, that the new section be  
added to the Schedule to the Bill, put and agreed to)*

*Nurses Act, Cap. 257, New Subsection 4(1)*

**The Temporary Deputy Chairman** (Hon. Patrick Mariru): Hon. Chair.

**Hon. (Ms.) Sabina Chege** (Murang'a, JP): Hon. Temporary Deputy Chairman, I beg to move:

THAT, the Schedule to the Bill be amended –

- (b) in the proposed new section (1) of section 4 by further amending the proposed amendment by inserting the words “or college” immediately after the word “university” appearing in paragraph (i).

The amendment seeks to insert the word “college”. The qualification for the chairperson of the Nursing Council is provided as a person with a diploma or Bachelor’s degree in nursing. It is, therefore, necessary to include both universities and colleges as institutions from which the degree or diploma would be obtained. I beg to move.

*(Question of the amendment proposed)*

*(Question, that the words to be inserted be inserted, put and agreed to)*

*(Provisions relating to the Nurses Act, Cap. 257,  
New subsection 4(1) as amended agreed to)*

**The Temporary Deputy Chairman** (Hon. Patrick Mariru): Hon. Members, we are done. Congratulations for that.

**Hon. Aden Duale** (Garissa Township, JP): Hon. Temporary Deputy Chairman, I beg to move that the committee doth report to the House its consideration of the Health Laws (Amendment) Bill (National Assembly Bill No.14 of 2018) and its approval thereof with amendments.

*(Question put and agreed to)*

*(The House resumed)*

*[Hon. Temporary Deputy Speaker  
(Hon. Christopher Omulele) in the Chair]*

**The Temporary Deputy Speaker** (Hon. Christopher Omulele): Chairperson.

**Hon. Patrick Mariru** (Laikipia West, JP): Hon. Temporary Deputy Speaker, I beg to report that the Committee of the whole House has considered the Health Laws (Amendment) Bill, (National Assembly Bill No.14 of 2018), and approved the same with amendments.

**Hon. Aden Duale** (Garissa Township, JP): Hon. Temporary Deputy Chairman, I beg to move that the House doth agree with the Committee in the said Report.

Before I request Hon. Sabina Chege to second, I want to thank Members of the Health Committee; other Members, including Hon. Millie Odhiambo; our staff; the men and women from the Ministry of Health sitting at the Civil Servants Bench; Hon. Wamunyinyi, at least, today he has succeeded in making sure that the society is retained, and Hon. Onyonka, who has left. I want to thank everybody including the various chairpersons of the Committee of the whole

House - Hon. Cheboi, Hon. Mariru and you Temporary Deputy Speaker. Thank you very much. I request Hon. Sabina Chege to second.

**Hon. (Ms.) Sabina Chege** (Murang'a CWR, JP): Thank you, Hon. Temporary Deputy Speaker. I also echo the words of the Hon. Leader of the Majority Party. I recognise Hon. (Dr.) Pukose who, somehow, the Hon. Leader of the Majority Party chose not to recognise and instead recognised Hon. Millie Odhiambo. He said he has only one soft spot and we will confirm that.

So, I thank the Members of my Committee who have put this together. Special recognition to the ones who are in the House such as Hon. (Dr.) Nyikal, Hon. Peters Owino, Hon. Kwenya, Hon. Dahir and also the gracious lady. We have been accused as ladies that we do not stay much in Parliament, but we have two gracious ladies here. Hon. Mukami from Nyeri and Hon. Millie Odhiambo who was also very passionate and keen on following the procedures and ensuring that the laws were done in the right way.

So, I appreciate each one of you. Hon. Wamunyinyi, thank you for fighting but we might have to meet with you as a Committee so that we can look again at the Bill. I am sure this is not the end of it all. Hon. Chairpersons from the Hon. Speaker's panel starting with you Hon. Temporary Deputy Speaker, Hon. Mariru and Hon. Cheboi, thank you. The staff of Parliament, but with special recognition to the gracious ladies who are sitting there next to the Chairperson, you have done a great job in guiding us. The clerk and the legal officer from my Committee, thank you for offering guidance to us when things were overwhelming.

Thank you, staff from the Ministry of Health for staying up to this time. You now know how laws are done. You have seen MPs work after 9.00 p.m. Some members of our families might be wondering where we went. So, it is good that they know we are still working. Dinner is on me. Once we finish, we will see whether gizzards and tea can be served. Hon. Members, thank you for the moral support. We would not have made it without you.

Thank you. Enjoy your recess and I second.

**The Temporary Deputy Speaker** (Hon. Christopher Omulele): Hon. Members, just before I propose the Question, I would also like to join and congratulate Members for a good job well done, and for the dedication and sitting for long hours. This is the mandate that the people of Kenya have given us and I think today we have served that mandate well. May God bless you as you enjoy your short recess.

The Hon. Leader of the Majority Party, may Allah be with you. You have done well.

*(Question proposed)*

Hon. Members, I will allow a few Members just because it is what it is. Especially the Hon. Member for Ndaragwa, I notice that you have not said much today and you have been here the whole evening. I will give you the first bite at it. Just one minute.

*(Technical hitch)*

Let us have Hon. Mukami, the Member for Nyeri.

**Hon. (Ms.) Rahab Mukami** (Nyeri CWR, JP): Thank you, Hon. Temporary Deputy Speaker. I thank the Committee for doing a good job. I have learnt a lot from other Members and especially Hon. Millie on the word ‘invasive’.

Thank you, Hon. Temporary Deputy Speaker.

### ADJOURNMENT

**The Temporary Deputy Speaker** (Hon. Christopher Omulele): Hon. Members, the time being 9.20 p.m., this House stands adjourned until Tuesday, 6<sup>th</sup> November 2018, at 2.30 p.m.

The House rose at 9.20 p.m.