SPECIAL ISSUE

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NATIONAL ASSEMBLY BILLS, 2021

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THE HEALTH (AMENDMENT) BILL, 2021

A Bill for

AN ACT of Parliament to amend the Health Act and for connected purposes

ENACTED by the Parliament of Kenya, as follows—

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

2. The Health Act (in this Act referred to as the "principal Act"), is amended in section 5 by inserting the following new subsection immediately after subsection 4— Amendment of section 5 of No. 21 of 2017.

"(5) The national government and county governments shall, in consultation through the existing inter-governmental relations mechanisms, establish regional cancer centres."

3. Section 7 of the principal Act is amended by inserting the following new subsections immediately after subsection (3)— Amendment of section 7 of No. 21 of 2017.

"(4) A person in charge of a public health facility commits an offence, if the person demands or permits the demand of payment of advance medical fees or admission fees prior to treating or admitting a patient as the case may be, and is liable on conviction to a fine not exceeding three million shillings or to imprisonment for a term of three months or to both.

(5) A person in charge of a public health facility commits an offence, if the person detains or permits the detention of the body of a deceased person for purposes of enforcing settlement of pending bills and, is liable on conviction to a fine not exceeding two million shillings or to imprisonment for a term of three months or to both."

4. Section 31 of the principal Act is amended by inserting the following new paragraph immediately after paragraph (d)— Amendment of section 31 of No. 21 of 2017.

"(da) levying of charges on the practice of conventional medicine in consultation with relevant statutory bodies and stakeholders."

MEMORANDUM OF OBJECTS AND REASONS

Statement of Objects and Reasons for the Bill

The principal object of this Bill is to amend the Health Act, *No. 21 of 2017* to provide that the national government and county govenrments shall, in consultation through the existing inter-governmental relations mechanisms establish regional cancer centres.

` The Bill also seeks to amend the principal Act to make it an offence for a person in-charge of a public health facility to demand or permit demands of payment of advance medical fees as a pre-condititon to provision of medical services.

The Bill also seeks to amend the principal Act to provide that it shall be an offence for a person in charge of public health facility to detain the body of a deceased person as a means of enforcing settlement of outstanding medical bills.

Further, the Bill seeks to amend the principal Act to provide for the regulation of the levying of charges for the practice of conventional medicine.

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

This Bill does not delegate legislative powers neither does it limit fundamental rights and freedoms.

Statement on how the Bill affects county governments

This Bill concerns county governments in terms of Article 110 (1) of the Constitution as it affects the functions and powers of county governments as set out under Part II of the Fourth Schedule to the Constitution.

Statement as to whether the Bill is a money Bill, within the meaning of Article 114 of the Constitution

The enactment of this Bill shall occasion additional expenditure of public funds.

Dated the 10th March, 2021.

MWAMBU MABONGAH,
Member of Parliament.

Section 5 of No. 21 of 2017 which it is proposed to amend—

Standard of health.

5. (1) Every person has the right to the highest attainable standard of health which shall include progressive access for provision of promotive, preventive, curative, palliative and rehabilitative services.

(2) Every person shall have the right to be treated with dignity, respect and have their privacy respected in accordance with the Constitution and this Act.

(3) The national and county governments shall ensure the provision of—

(a) free and compulsory vaccination for children under five years of age; and

(b) maternity care.

(4) For the purposes of implementing subsection (3), the national government shall in consultation with the respective county governments provide funds to county governments.

Section 7 of No. 21 of 2017 which it is proposed to amend—

Emergency treatment.

7. (1) Every person has the right to emergency medical treatment.

(2) For the purposes of this section, emergency medical treatment shall include—

(a) pre-hospital care;

(b) stabilizing the health status of the individual; or

(c) arranging for referral in cases where the health provider of first call does not have facilities or capability to stabilize the health status of the victim.

(3) Any medical institution that fails to provide emergency medical treatment while having ability to do so commits an offence and is liable upon conviction to a fine not exceeding three million shillings.

Section 31 of No. 21 of 2017 which it is proposed to amend—

Functions of the Council.

31. The Council shall review policy and establish uniform norms and standards for—

(a) posting of interns to National Government and County Government facilities;

(b) inter county transfer of healthcare professionals;

(c) transfer of healthcare professionals from one level of Government to another;

(d) the welfare and the scheme of service for health professionals;

(e) management and rotation of specialists; and

(f) the maintenance of a master register for all health practitioners in the counties.