

**PARLIAMENT OF KENYA
THE SENATE**

SENATE BILLS DIGEST

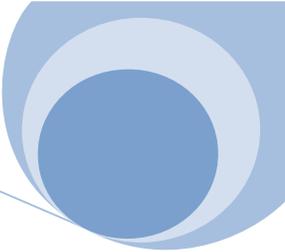
THE HEALTH BILL (NATIONAL ASSEMBLY BILLS NO. 14 OF 2015)

Sponsor: Hon. Aden Duale
Date of Publication: 17th April, 2015
Date of First Reading: 27th April, 2016
Committee referred to: Standing Committee on Health
Type of Bill: Ordinary Bill

1. PURPOSE OF THE BILL

The Health Bill, among other objectives, seeks to-

- (a) expound on the assignment of health functions between the national government and the county governments;
- (b) establish the offices of the Director- General of Health and the County Director of Health ;
- (c) establish an oversight authority to coordinate and supervise the activities of regulatory bodies within the health sector;
- (d) establish a Council to set norms and standards for the health work force across the country;
- (e) establish a research committee as an advisory body for research for health matters; and
- (f) provide for the use of technological developments within the health care service.



2. BACKGROUND OF THE BILL

Article 43(1)(a) of the Constitution provides that every person has the right to the highest attainable standard of health, which includes the right to health care services, including reproductive health care. Further, Article 43(2) states that a person shall not be denied emergency medical treatment.

The Bill seeks to steer towards a progressive realization of the aforementioned constitutional rights by establishing a national health system, through regulation of the health care industry.

3. OVERVIEW OF THE BILL

The Bill provides for —

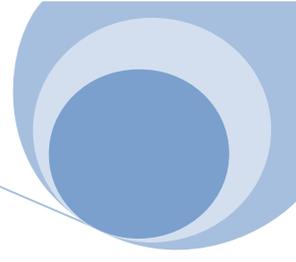
(1) Offices and Statutory Bodies established under the Bill

The Bill establishes a number of institutions to help in the implementation of the Act —

(a) Office of the Director -General

Clause 16 of the Bill establishes the office of the Director-General who shall be recruited by the Public Service Commission, vetted by Parliament and appointed by the President. The Director-General shall among other functions outlined under clause 17-

- (i) be the technical advisor to the Government on all matters relating to health within the health sector;
- (ii) provide guidelines for registration, licensing, certification and *gazettement* of all health facilities ;
- (iii) be responsible for internship program for health workers;
- (iv) advice the two levels of government on matters of national security as regards public health.



(b) Directorates

These are contemplated under clause 18 of the Bill. The directorate will be established by the Cabinet Secretary in charge of Health in consultation with the Director-General.

(c) The County Director of Health

The office of the County Director of Health is established under clause 19(2) of the Bill with the qualifications for appointment provided for. The functions of the County Director of health are similar to those of the Director General, but within the counties.

(d) Health Sector Inter-Governmental Consultative Forum

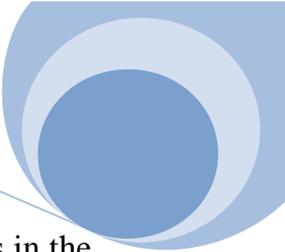
The Forum is established under clause 26 of the Bill. The forum comprises the Director-General and the 47 county directors of health. The purpose of the Forum is to develop criteria and framework for determining matters requiring inter-governmental consultation and to develop inter-governmental agreements for joint implementation of any activities for health service delivery. The forum shall meet at least twice a year.

(e) Kenya Health Human Resource Advisory Council

The Council is established under clause 30 of the Bill. The Council comprises a chairperson appointed by the President, ten other members and a CEO. The main function of the Council is to review policy and establish uniform norms and standards for

—

- (i) posting of interns to National Government and County Government facilities;
- (ii) inter county transfer of healthcare professionals;
- (iii) transfer of healthcare professionals from one level of Government to another;
- (iv) the scheme of service for health professionals;
- (v) management and rotation of specialists; and

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

(f) Kenya Health Professions Oversight Authority

Clause 45 establishes the Oversight Authority comprising a chairperson appointed by the Cabinet Secretary, eleven other members and a CEO. The main functions of the Authority include to —

- (i) to maintain a duplicate register of all health professionals working within the national health system;
- (ii) promote and regulate inter-professional liaison between statutory regulatory bodies;
- (iii) receive and facilitate the resolution of complaints from patients, aggrieved parties and regulatory bodies; and
- (iv) ensure the necessary standards for health professionals are not compromised by the regulatory bodies.

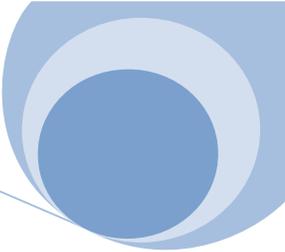
(g) National Health Research Committee

The National Health Research Committee is provided for under Clause 93 of the Bill. This is a technical committee, chaired by a distinguished health researcher and ten other members, mandated to identify research areas in the health sector, in light of recognized priorities and economic resources.

(h) Others

The Bill makes reference to other institutions which should be established by way of an Act of Parliament. These are —

- (i) a single statutory regulatory body for regulation of health products and health technologies-clause 62
- (ii) a regulatory body to regulate the practice of traditional medicine and alternative medicine- clause 75; and



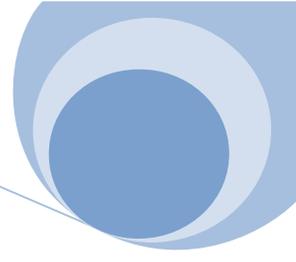
(iii) Kenya National Blood Transfusion Service- clause 85.

(2) Rights and Duties Provided in the Bill

Clauses 6-14 of the Bill generally makes provision for rights and duties of health care users and health care providers.

Clause 15 sets out numerous functions of the national government, among them-

- (i) develop health policies, laws and administrative procedures and programmes in consultation with county governments and health sector stakeholders and the public for the progressive realization of the highest attainable standards of health;
- (ii) establish an emergency medical treatment fund for emergencies to provide for unforeseen situations calling for supplementary finance;
- (iii) set guidelines for the designation of referral health facilities;
- (iv) ensure the implementation of rights to health specified in the Bill of Rights, and more particularly the progressive realization of the right of all to the highest attainable standard of health including reproductive health care and the right to emergency treatment;
- (v) offer technical support at all levels with emphasis on health system strengthening;
- (vi) develop and implement measures to promote equitable access to health services to the entire population, with special emphasis on eliminating the disparity in realization of the objects of this Act for marginalized areas and disadvantaged populations; and
- (vii) develop and promote application of norms and standards for the development of human resources for health including affirmative action measures for health workers working in marginalized areas.



(3) Health Financing

The Bill at clause 86 (2) bestows the duty of establishing a common mechanism for coordinating planning, financing, monitoring and evaluation of the health sector, upon the Ministry of health.

(4) E-Health

Clause 103 of the Bill recognizes e-health as a mode of health service and directs the Cabinet Secretary to ensure enactment of e-legislation within three years of the operation of the Act.

(5) Technical Classification of Levels of Health Care Delivery

The First Schedule of the Bill outlines the six levels of health care deliveries and the functions of each level.

4. Way Forward

The Bill was read a First Time in the Senate on 27th April, 2016, while the Second Reading was concluded on 8th June, 2016. The Senate Standing Committee on Health subjected the Bill to public participation on 15th June, 2016 and is now in the process of compiling its report to be presented to the Senate. The Bill is due for Committee of the Whole.

Note:

1. This Digest reflects the Bill as published and does not cover any subsequent amendments to the Bill after publication.
2. The Digest does not have any official legal status.