



REPUBLIC OF KENYA

-----  
THIRTEENTH PARLIAMENT

THE SENATE

-----  
STANDING COMMITTEE ON HEALTH  
-----

REPORT ON THE COMMITTEE ON HEALTH ON ITS CONSIDERATION OF  
THE HEALTH (AMENDMENT) BILL, 2025 (SENATE BILLS NO. 12 OF 2025)

	DATE	2/12/2025
	TABLED BY	Chair
	COMMITTEE	-
	CLERK AT THE TABLE	Angela

Clerks Chambers,  
Parliament Buildings,  
NAIROBI.

December, 2025



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## LIST OF ABBREVIATIONS

COG	Council of County Governors
CS	Cabinet Secretary
ICCPR	International Covenant on Civil and Political Rights
KELIN	Kenya Legal and Ethical Issues Network
KLR	The Kenya Law Reports
MoH	Ministry of Health
NGEC	National Gender and Equality Commission
SHIF	The Social Health Insurance Fund
UHC	Universal Health Coverage
WHO	World Health Organization



## PRELIMINARIES

### Establishment and Mandate of the Committee

The Standing Committee on Health is established pursuant to standing order 228 (3) and the Fourth Schedule of the Senate Standing Orders and is mandated to *consider all matters relating to medical services, public health and sanitation.*

Pursuant to Standing Order 228(4), the Committee is specifically mandated to-

- a) *investigate, inquire into, and report on all matters relating to the mandate, management, activities, administration and operations of the Ministry of Health and its departments;*
- b) *study the programme and policy objectives of the Ministry of Health and its departments, and the effectiveness of the implementation thereof;*
- c) *study and review all legislation referred to it;*
- d) *study, assess and analyze the success of the Ministry of Health and departments assigned to it as measured by the results obtained as compared with their stated objectives;*
- e) *consider the Budget Policy Statement in line with the Committee's mandate;*
- f) *report on all appointments where the Constitution or any law requires the Senate to approve;*
- g) *make reports and recommendations to the Senate as often as possible, including recommendations for proposed legislation;*
- h) *consider reports of Commissions and Independent Offices submitted to the Senate pursuant to the provisions of Article 254 of the Constitution;*
- i) *examine any statements raised by Senators on a matter within its mandate; and*
- j) *follow up and report on the status of implementation of resolution within its mandate; and*
- k) *follow up and report on the status of commitments made by the Cabinet Secretaries in their response to questions under Standing Order 51C.*

### Committee Membership

The Committee is comprised of the following members-

- |   |   |                         |
|---|---|-------------------------|
| 1. Sen. Jackson K. Mandago, EGH, MP             | - | <b>Chairperson</b>      |
| 2. Sen. Mariam Sheikh Omar, MP                  | - | <b>Vice-Chairperson</b> |
| 3. Sen. Justice (Rtd.) Stewart Madzayo, EGH, MP | - | Member                  |
| 4. Sen. Ledama Olekina, MP                      | - | Member                  |
| 5. Sen. David Wakoli,MP                         | - | Member                  |
| 6. Sen. Richard Onyonka,MP                      | - | Member                  |
| 7. Sen. Tabitha Mutinda,MP                      | - | Member                  |
| 8. Sen. Hamida Kibwana,MP                       | - | Member                  |
| 9. Sen. Joseph Githuku,MP                       | - | Member                  |



## CHAIRPERSON'S FOREWORD

The Health (Amendment) Bill, 2025 (Senate Bills No. 12 of 2025) was introduced in the Senate by way of First Reading on Tuesday 23<sup>rd</sup> September, 2025 and thereafter stood committed to the Committee on Health for consideration.

The principal object of the Bill is to prohibit the detention of patients or the bodies of deceased patients by health facilities as a means of securing payment for outstanding medical or mortuary bills. The Bill, further, seeks to make it a criminal offence for any person responsible for discharging patients in a health facility to detain them due to unpaid medical bills. This Bill reinforces Kenya's commitment to upholding the right to human dignity and protection from arbitrary detention as enshrined in the Constitution.

In accordance with the provisions of Article 118 of the Constitution and standing order 145 (5) of the Senate Standing Orders, the Committee subsequently, through public advertisements that appeared in the *Daily Nation* and the *Standard* Newspapers that appeared on Wednesday, 30<sup>th</sup> September, 2025, invited interested members of the public to submit any representations that they may have on the Bill by way of written memoranda.

The Committee received written memoranda from the Ministry of Health, the Council of Governors, the National Gender and Equality Commission (NGEC), the Kenya Ethical and Legal Issues Network and Aga Khan Health Services. At the close of public participation period, the Committee prepared a comprehensive matrix of all submissions, views and proposed amendments for its consideration.

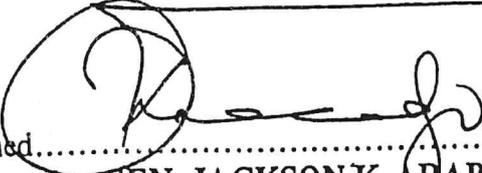
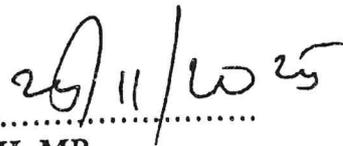
Upon deliberation, the Committee observed that the practice of detaining patients or deceased persons for non-payment of medical or mortuary fees is contrary to international human rights standards, as reaffirmed by the World Health Organization (WHO) in its 2020 paper titled *Ending Hospital Detention for Nonpayment of Bills: Legal and Health Financing Options*.

The Committee reaffirmed that the objective of the Bill is not to criminalize the recovery of lawful debts but to outlaw the unethical and unlawful act of detaining patients or corpses for non-payment of medical fees, a practice already condemned by Kenyan courts in the case of *Emma Muthoni Njeri v Nairobi Women's Hospital KEHC 8797 (KLR)* decision.

The Committee further acknowledges that Kenya has made significant progress towards achieving Universal Health Coverage through the establishment of the Social Health Insurance Fund, Emergency, Chronic and Critical Illness Fund, and the Primary Healthcare Fund. These mechanisms are designed to reduce the financial burden on citizens when seeking medical services and consequently eradicate unethical practices such as hospital detention for non-payment of medical fees.

As I conclude, I wish to sincerely thank the Office of the Speaker and the Office of the Clerk of the Senate for the support extended to the Committee in execution of its mandate. I also wish to extend my gratitude to the Committee members for their diligence, commitment and insightful contributions throughout consideration of this Bill.

It is now my pleasant duty, pursuant to standing order 148 (1) of the Senate Standing Orders, to present the Report of the Standing Committee on Health on its consideration of the Health (Amendment) Bill, 2025 (Senate Bills No. 12 of 2025).

Signed.......... Date..........  
**SEN. JACKSON K. ARAP MANDAGO, EGH, MP,**  
**CHAIRPERSON, STANDING COMMITTEE ON HEALTH.**

## CHAPTER ONE

### 1. Introduction

- 1) The Health (Amendment) Bill, 2025 (Senate Bills No. 12 of 2025) was published in the Kenya Gazette Supplement No. 120 on July 18<sup>th</sup>, 2025. The Bill seeks to prohibit the detention of patients and corpses in hospitals owing to the inability of a patient to meet the hospital fees.
- 2) The Bill was introduced in the Senate by way of First Reading on Tuesday, 23<sup>rd</sup> September 2025 and thereafter stood committed to the Committee on Health for consideration. A copy of the Bill as published and introduced to the Senate has been attached to this report as *Annex 2*.
- 3) In compliance with the provisions of Article 118 of the Constitution and Standing Order 145 (5) of the Senate Standing Orders, the Committee proceeded to undertake public participation on the Bill. In this regard, the Committee published an advertisement in the Daily Nation and Standard newspapers on Wednesday, 1<sup>st</sup> October, 2025, inviting members of the public to submit written memoranda to the Committee on the Bill. A copy of the advertisement as published has been attached to this report as *Annex 3*.

#### 1.1. Objectives of the Bill.

- 4) The objects of the Bill are to –
  - (a) The Bill seeks to amend the Health Act to prohibit health facilities from detaining patients or their corpses over unpaid medical bills. This aims to protect the patients' constitutional rights to dignity, freedom of movement, and liberty as guaranteed under Articles 28, 29, and 39 of the Constitution.
  - (b) The Bill further makes it an offence for any person tasked with the discharge of patients in Hospital to detain a patient or cause the detainment of a patient or a corpse of a patient.

#### 1.2. Overview of the Bill

- 5) The Bill seeks to insert a new section 7A to the Health Act to –
  - (a) prohibit the detention of patients or corpses of patients by health facilities as a security for payment of medical fees;
  - (b) Make it a criminal offence for any person in charge of a health facility to violate the provision on prohibition against detaining patients or corpses as lien for outstanding medical fees, making them personally liable for such actions; and

- (c) Empower the Cabinet Secretary for Health with the responsibility to develop regulations aimed at establishing lawful procedures and mechanisms for health facilities to recover unpaid fees for services rendered, providing an alternative to detention.

## CHAPTER TWO

### 2. Overview of Public Participation

- 6) The Committee received a total of five (5) written memoranda from five stakeholders comprising the Ministry of Health (MoH), The Council of County Governors (CoG), The National Gender and Equality Commission, the Aga Khan Health Care services and the Kenya Legal and Ethical Networks other government agencies as well as the private sector. A comprehensive matrix of all submissions, views and proposed amendments has been attached as *Annex 4* on this report.
- 7) The **Ministry of Health** advanced several arguments against the proposed amendment as follows –
  - a) Mortuary services are categorized as billable services and are therefore subject to applicable fees and charges as per the institutions' approved rates. In their view, charging for such services cannot be criminalized as proposed in the Bill.
  - b) Mortuary and patient services are already provided for under the tariffs for healthcare under the Social Health Insurance scheme, which is designed to alleviate any financial burdens that may be experienced by patients and their families.
  - c) The issue of non-payment of fees should be handled administratively rather than through criminalization of healthcare providers.
- 8) The **Aga Khan Health Services** submitted as follows –
  - (a) while the Bill protects patient rights under Articles 28, 29, and 39 of the Constitution (dignity, security, and freedom of movement), it fails to protect health facilities' property rights under Article 40, specifically the right to collect fees for services rendered.
  - (b) The stakeholder contended that patient rights are provided for in the primary legislation while health facility rights are relegated to subsidiary regulations, creating a hierarchy of laws that devalues provider interests.
  - (c) Private facilities operate without government subsidies, relying entirely on patient payments. The stakeholder argued that unpaid bills directly threaten operational capacity including inability to pay staff salaries, equipment maintenance challenges, medicine stock depletion, compromised emergency readiness and risk of facility closures due to revenue losses.
  - (d) health facilities enter into contractual agreements with patients for provision of health services, however, patients and families increasingly refuse payment and decline transfers to affordable facilities. The situation is particularly acute with foreign patients who obtain court orders for discharge or release and then leave the country, abandoning legal proceedings.

- (e) Court petitions are used tactically with media publicity to pressure facilities, causing reputational damage. Civil court judgments remain unenforceable “paper judgments” and even successful court cases rarely award costs to facilities, leaving them with additional legal expenses.
- (f) The amendment creates a passive incentive for intentional non-payment since facilities lose all leverage. It also undermines existing contractual relationships and freedom of contract.
- (g) Under the Kenya National Patients, Rights Charter 2023, patients have the responsibility to enquire about costs and arrange payment. They are expected to choose facilities they can afford. Further, under the Kenya Health Sector Referral Implementation Guidelines 2014, lack of financial resources is a legitimate ground for patient referral, and patients or next of kin must consent to transfers or sign forms indicating they act against medical advice. Most patients, however, refuse to be transferred to other hospitals.
- (h) As a result of the above arguments, the stakeholder requested the Senate Committee on Health to –
  - (i) Exemption private health facilities from the application of Section 7A given their unique funding model
  - (ii) Include a new subsection requiring patients to ensure fees are fully paid or provide an acceptable enforceable undertaking to the health facility, if the Committee retains the clause.
  - (iii) Delete the clause empowering the Cabinet Secretary to make regulations for recovery of fees as it goes against freedom of contract
  - (iv) Criminalize patients who fail to adhere to their contract to pay fees or honor their payment undertakings.

9) **The Council of County Governors (COG)** made the following submissions –

- (a) The provision allowing the Cabinet Secretary for Health to make regulations on fee recovery would lead to micromanagement of counties, yet health is a devolved function under the Constitution. This would undermine the constitutional framework of devolution.
- (b) The stakeholder however indicated that the rest of the provisions in the Bill are okay.

10) **The National Gender and Equality Commission** proposed –

- (a) Deletion of the words “a health facility” with “both private and public facilities” to make it explicitly clear that the provision will apply to both public and private health facilities. This removes any ambiguity about the Bill’s scope.

- (b) Provision of a clear penalty for facility officers who detain patients for the purpose of enforcing medical bills. NGEK proposed a fine not exceeding two million shillings.
- (c) Inclusion of a provision that “the facility and the kin of a discharged patient and/or of the deceased shall agree on the modalities of payment of the outstanding charges.” This would facilitate resolution while respecting both parties’ interests.

11) The **Kenya Legal and Ethical Issues Network (KELIN)** submitted as follows-

- (a) There is need for a clear definition of the term “detention” to ensure that all circumstances foreseen are captured in the Bill.
- (b) The Bill should prescribe a specific penalty for violations of the prohibition against detention. Without a clear penalty, enforcement may be inconsistent.
- (c) There is need for clarity as to whether the criminalization applies only to detentions arising out of emergency care or in all instances, since the amended section deals with emergency care.
- (d) Suggest a redress mechanism for kins for detained patients



## CHAPTER 3

### 3. COMMITTEE OBSERVATIONS AND RECOMMENDATIONS

#### 3.1. Committee Observations

- 12) Having considered the Health Amendment Bill (Senate Bills No. 12 of 2025), and submissions from stakeholders, the Committee made the following observations-
- 1) The World Health Organization in its paper Titled *“Ending Hospital Detention for Nonpayment of Bills: Legal and Health Financing Options”* published in the year 2020, advises members that no person should be detained in a hospital against their will for non-payment of bills and user fees. Nor should the remains of a deceased patient be withheld and not released for unpaid hospital bills and user fees. WHO reiterates that the practice of hospital detention for non-payment of bills is contrary to international human rights laws and to Universal Health Coverage (UHC) objectives.
  - 2) WHO has further advised that the legal options available to end the practice of hospital detention for non-payment of bills and user fees, includes prohibition of the practice of hospital detention; recognizing international human rights in national legislation; committing to Universal Healthcare Coverage in domestic laws; ensuring proper implementation and enforcement mechanisms; and establishing information and reporting mechanisms.
  - 3) Kenya has ratified and domesticated a number of International Human Rights instruments including the International Covenant on Civil and Political Rights, International Covenant on Socio-economic and Cultural Rights and the Universal Declaration on Human Rights. Article 11 of the ICCPR for example provides that no one shall be imprisoned merely on the ground of inability to fulfil a contractual obligation. This provision prohibits the deprivation of personal liberty for failure to pay a debt. It is for this reason that the act of detaining a patient as a lien for payment of medical fees is not only immoral but also illegal and violates the International Human Rights instruments which are the foundation of the Bill of Rights under Chapter 4 of the Kenyan Constitution.
  - 4) The High Court of Kenya has also pronounced itself on the issue of hospital detentions in the case of **Emma Muthoni Njeri v Nairobi Women’s Hospital [2021] KEHC 8797 (KLR)** where the court stated as follows in paragraph 47 of the judgement **“The Respondent herein is not empowered under the law to hold any person within the hospital for failure to pay medical bills. The Respondent’s action of holding the Petitioner over an unpaid medical bill makes it culpable for illegally detaining the Petitioner. Although the Petitioner was in breach of her contractual obligation to pay her bill, the Respondent had other options open to it to recover the debt and should not have detained the Petitioner.”**

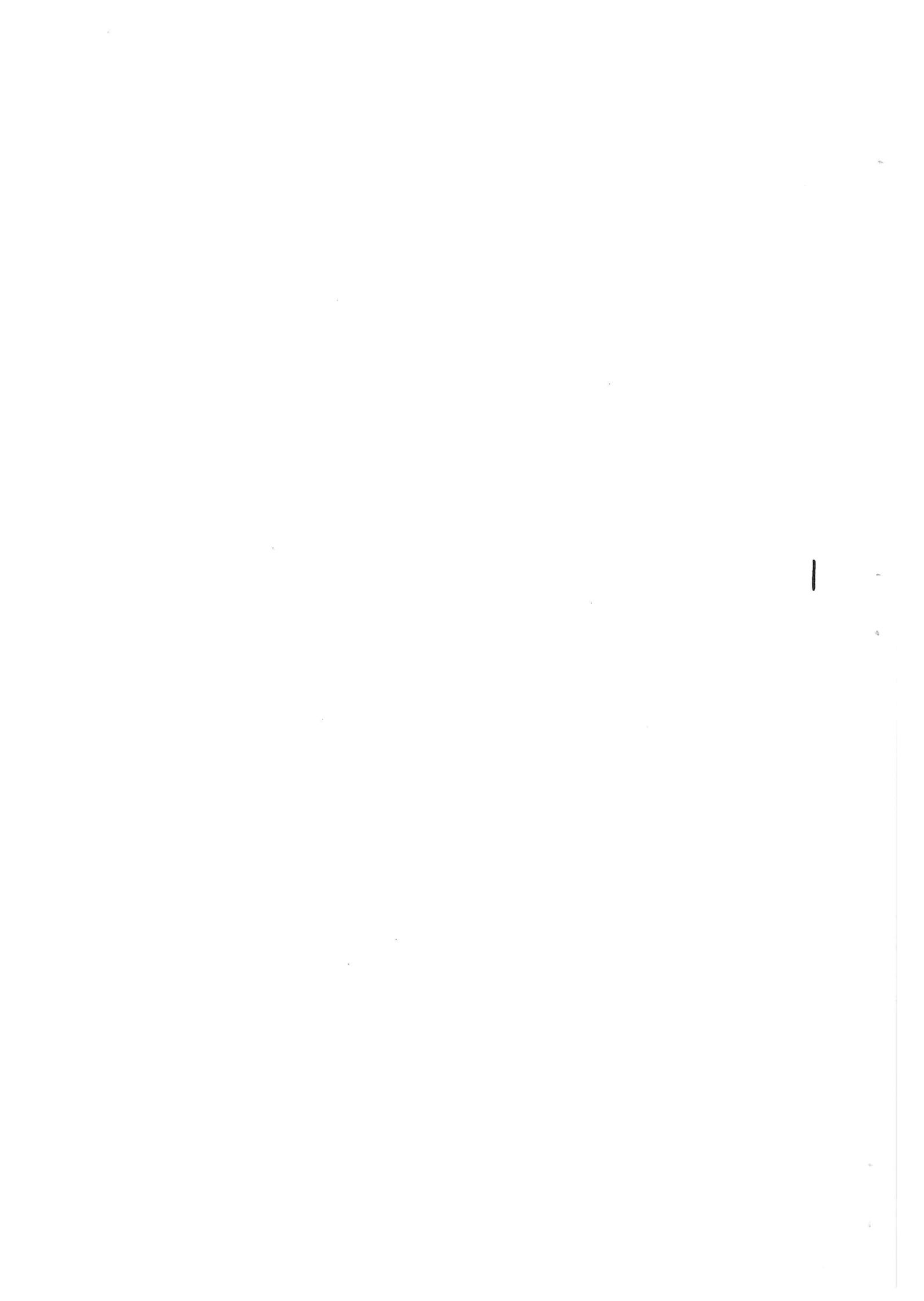
- 5) The Bill seeks to end detention of patients or corpses of patients as lien for outstanding medical fees or mortuary fees and make it a criminal offence for any person in charge of the discharge of patients in a health facility to detain any patient owing to an outstanding medical fee. The Bill further empowers the Cabinet Secretary for health to develop regulations to guide health facilities in alternative methods of recovery of medical or mortuary fees.
- 6) The Bill aligns with Kenya's constitutional rights to human dignity provided under Article 28, freedom of movement anchored under Article 39, and protection from arbitrary detention protected under Article 29 of the Constitution which are all threatened by the act of hospital detention. Hospital detention constitutes cruel, inhuman, and degrading treatment, violating patients' right to dignity. Hospital detainees face abusive conditions, psychological trauma, and increased health risks from overcrowded facilities and infection exposure. The practice largely affects vulnerable groups including women, children, and the poor, making it inherently discriminatory.
- 7) The Committee notes the concerns raised by the Ministry of Health who seek a deletion of the provision in the Bill citing reasons that Mortuary services are classified as billable services under approved institutional rates and are covered within Social Health Insurance tariffs designed to alleviate financial burdens on families. Charging for these services constitutes legitimate administrative practice that should not be criminalized. Issues related to non-payment of fees should be resolved through administrative mechanisms rather than through criminal sanctions against healthcare officers. The committee however resolved that what is being criminalized in the Bill is not the act of charging medical and mortuary fees but rather the act of detention of a patient or corpse for inability to pay the medical fees, an act which is condemned internationally by WHO and settled by the Kenyan courts in the case of **Emma Muthoni Njeri v Nairobi Women's Hospital [2021] KEHC 8797 (KLR)**.
- 8) The Committee further notes that Kenya has made big strides in the attainment of Universal Healthcare Objectives as proposed by WHO through the establishment of the Social Health Insurance Fund, Emergency, Chronic and Critical illnesses Fund, The Primary Healthcare Fund and the Facility Improvement Fund. These funds were anchored in the Kenyan law to alleviate the financial burden suffered when accessing medical care in Kenya. It is therefore a step forward towards eradicating hospital detention of patients for inability to pay medical fees as proposed by WHO.
- 9) Concerns were also raised by the private sector such as Aga Khan Health Services, who criticized the Bill for protecting patients' rights at the expense of the property rights of the health facilities as provided for under Article 40 of the Constitution. They indicated that the Bill threatens the existence of

private health facilities who don't rely on government subsidies and also affect operations such as payment of salaries, equipping the hospital with medicines and attending to emergency care among others. The Committee however resolved that it is the right of health facilities to charge for services rendered to patients save that detention of patients cannot be utilized as a method of recovery of the fees. The health facilities can use alternative means such as payment plans, accepting promissory notes accompanied by securities, exploring recovery through alternative dispute resolution or through courts.

- 10) Concerning the offence created in Bill, the committee resolved that the general penalty of a fine not exceeding two million shillings or to imprisonment for a term of three months as provided for under section 111 of the Health Act is sufficient to deter acts of detention of patients in health facilities by persons in charge of the discharge of the patients.

### **3.2. Committee Recommendations**

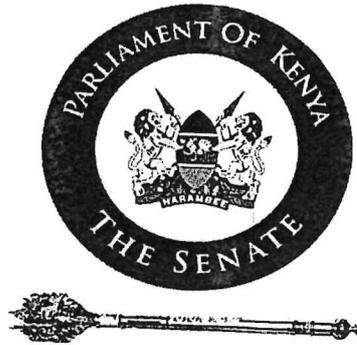
- 13) The Committee therefore recommends that the Senate passes the Bill without amendments.



**Annex 1:**

**Minutes of the Committee Sittings**





**13<sup>TH</sup> PARLIAMENT | 4<sup>TH</sup> SESSION**

**MINUTES OF THE SEVENTY- FIRST (71<sup>ST</sup>) VIRTUAL - SITTING OF THE  
STANDING COMMITTEE ON HEALTH HELD ON TUESDAY, 25<sup>TH</sup>  
NOVEMBER, 2025 AT 11.00 AM IN COMMITTEE ROOM 6, BUNGE TOWER**

**MEMBERS PRESENT**

- |  |                    |
|--|--------------------|
| 1. Sen. Jackson K. Arap Mandago, EGH, MP | - Chairperson      |
| 2. Sen. Mariam Sheikh Omar, MP           | - Vice-Chairperson |
| 3. Sen. Richard Onyonka, MP              | - Member           |
| 4. Sen. Tabitha Mutinda, MP              | - Member           |
| 5. Sen. Hamida Kibwana, MP               | - Member           |

**ABSENT WITH APOLOGY**

- |  |          |
|--|----------|
| 1. Sen. Justice (Rtd) Stewart Madzayo, EGH, MP | - Member |
| 2. Sen. Ledama Olekina, MP                     | - Member |
| 3. Sen. David Wakoli, MP                       | - Member |
| 4. Sen. Joseph Githuku Kamau, MP               | - Member |

**SENATE SECRETARIAT**

- |                         |                           |
|-------------------------|---------------------------|
| 1. Mr. Humphrey Ringera | - Senior Research Officer |
| 2. Mr. David Ngamate    | - Clerk Assistant         |
| 3. Mr. Gilbert Juma     | - Legal Counsel           |
| 4. Ms. Lilian Onyari    | - Fiscal Analyst          |
| 5. Mr. David Munene     | - Research Officer        |
| 6. Mr. Ian Otieno       | - Audio Assistant         |
| 7. Mr. Jack Lemeteki    | - Media Relations Officer |
| 8. Ms. Ivy Marubu       | - Intern                  |

**MIN/SEN/SCH/361/2025**

**PRELIMINARIES**

The meeting was called to order at twenty-five minutes past eleven o'clock and the proceedings commenced with a word of prayer and brief introductions of those present.

**MIN/SEN/SCH/362/2025**

**ADOPTION OF THE AGENDA**

The agenda of the meeting was adopted after being proposed by Sen. Hamida Kibwana, MP and seconded by Sen. Mariam Sheikh Omar, MP, as listed below-

1. Preliminaries;
2. Adoption of the Agenda;
3. Confirmation of Minutes of the previous Committee meetings
  - a. Minutes of the 60<sup>th</sup> Sitting of the Committee held on 6<sup>th</sup> November, 2025;
  - b. Minutes of the 65<sup>th</sup> Sitting of the Committee held on 13<sup>th</sup> November, 2025;
  - c. Minutes of the 70<sup>th</sup> Sitting of the Committee held on 18<sup>th</sup> November, 2025;
  - d. Minutes of the 51<sup>st</sup> and 52<sup>nd</sup> Sitting of the Committee held on 22<sup>nd</sup> Oct, 2025;
  - e. Minutes of the 53<sup>rd</sup> and 54<sup>th</sup> Sitting of the Committee held on 23<sup>rd</sup> Oct, 2025;
  - f. Minutes of the 55<sup>th</sup> and 56<sup>th</sup> Sitting of the Committee held on 24<sup>th</sup> Oct, 2025
4. Matters Arising from the Minutes of the previous meetings;
5. Consideration of the Health (Amendments) Bill (Senate Bills No. 12 of 2025) (Committee Paper No. 154);
6. Consideration of the Committee Report on the County Oversight Visits Kitui, Makueni and Machakos Counties (Committee Paper No.155);
7. Any other Business; and
8. Adjournment/Date of the Next Meeting

**MIN/SEN/SCH/363/2025**

**CONFIRMATION OF MINUTES OF THE PREVIOUS COMMITTEE MEETINGS**

- a) The Minutes of the 60<sup>th</sup> meeting held on Thursday 6<sup>th</sup> November, 2025 were confirmed as a true record of the proceedings having been proposed by Sen. Richard Onyonka, MP and seconded by Sen. Tabitha Mutinda, MP;
- b) The Minutes of the 70<sup>th</sup> meeting held on Tuesday 18<sup>th</sup> November, 2025 were confirmed as a true record of the proceedings having been proposed by Sen. Tabitha Mutinda, MP, and seconded by Sen. Mariam Sheikh Omar, MP;
- c) The Minutes of the 65<sup>th</sup> meeting held on Thursday 13<sup>th</sup> November, 2025 were confirmed as a true record of the proceedings having been proposed by Sen. Mariam Sheikh Omar, MP, and seconded by Sen. Richard Onyonka, MP;
- d) The Minutes of the 51<sup>st</sup> meeting held on Wednesday 22<sup>nd</sup> October, 2025 were confirmed as a true record of the proceedings having been proposed by Sen. Tabitha Mutinda, MP, and seconded by Sen. Richard Onyonka, MP;
- e) The Minutes of the 52<sup>nd</sup> meeting held on Saturday 22<sup>nd</sup> October, 2025 at 12.00 were confirmed as a true record of the proceedings having been proposed by Sen. Richard Onyonka, MP, and seconded by Sen. Tabitha Mutinda, MP;

- f) The Minutes of the 53<sup>rd</sup> meeting held on Thursday 23<sup>rd</sup> October, 2025 were confirmed as a true record of the proceedings having been proposed by Sen. Richard Onyonka, MP, and seconded by Sen. Tabitha Mutinda, MP;
- g) The Minutes of the 54<sup>th</sup> meeting held on Thursday 23<sup>rd</sup> October, 2025 were confirmed as a true record of the proceedings having been proposed by Sen. Tabitha Mutinda, MP, and seconded by Sen. Richard Onyonka, MP;
- h) The Minutes of the 55<sup>th</sup> meeting held on Friday 24<sup>th</sup> October, 2025 were confirmed as a true record of the proceedings having been proposed by Sen. Tabitha Mutinda, MP, and seconded by Sen. Richard Onyonka, MP; and
- i) The Minutes of the 56<sup>th</sup> meeting held on Friday 24<sup>th</sup> October, 2025 were confirmed as a true record of the proceedings having been proposed by Sen. Tabitha Mutinda, MP, and seconded by Sen. Richard Onyonka, MP.

**MIN/SEN/SCH/364/2025**

**MATTERS ARISING**

a) *Under Ex MIN/SEN/SCH/335/2025 – Any Other Business*

The Committee resolved to undertake the Foreign Travel to the United Arab Emirates during the December Recess and the Chairperson requested the delegation that has been nominated to attend to liaise with the Secretariat for logistical planning. Consequently, the Committee resolved to undertake the said visit tentatively from 18<sup>th</sup> to 26<sup>th</sup> January, 2026

**MIN/SEN/SCH/365/2025**

**CONSIDERATION OF THE HEALTH (AMENDMENTS) BILL (SENATE BILLS NO. 12 OF 2025) (COMMITTEE PAPER NO. 154);**

1. The Secretariat presented for consideration the Health (Amendments) Bill (Senate Bills No. 12 of 2025 as contained in the *Committee Paper No. 154*.

**Committee Resolution**

2. After deliberations, the Committee therefore recommended that the Senate passes the Bill without amendments.
3. The Committee Report was unanimously adopted after being proposed by Sen. Richard Onyonka, MP and seconded by Sen. Tabitha Mutinda, MP

**MIN/SEN/SCH/366/2025**

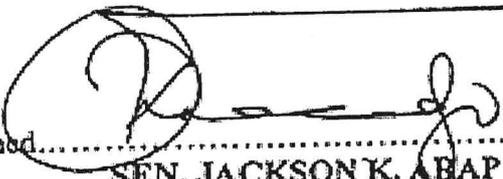
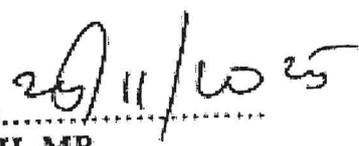
**ANY OTHER BUSINESS**

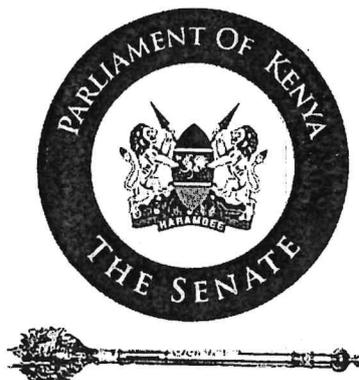
The Committee resolved that the Committee Report on the County Oversight and Networking Engagements to Kitui, Makueni and Machakos be circulated on WhatsApp ahead of the meeting for their perusal and advance reading.

MIN/SEN/SCH/367/2025

ADJOURNMENT

There being no other business, the meeting ended at ten minutes past one o'clock. The next meeting shall be held on notice.

Signed.......... Date..........  
**SEN. JACKSON K. ABAP MANDAGO, EGH, MP,**  
**CHAIRPERSON, STANDING COMMITTEE ON HEALTH.**



**13<sup>TH</sup> PARLIAMENT | 4<sup>TH</sup> SESSION**

**MINUTES OF THE SEVENTIETH (70<sup>TH</sup>) SITTING OF THE STANDING COMMITTEE ON HEALTH HELD ON TUESDAY, 18<sup>TH</sup> NOVEMBER, 2025 AT 11.00 AM IN COMMITTEE ROOM 6, BUNGE TOWER**

**MEMBERS PRESENT**

- |  |                    |
|--|--------------------|
| 1. Sen. Jackson K. Arap Mandago, EGH, MP       | - Chairperson      |
| 2. Sen. Mariam Sheikh Omar, MP                 | - Vice-Chairperson |
| 3. Sen. Justice (Rtd) Stewart Madzayo, EGH, MP | - Member           |
| 4. Sen. Tabitha Mutinda, MP                    | - Member           |
| 5. Sen. Hamida Kibwana, MP                     | - Member           |

**ABSENT WITH APOLOGY**

- |                                  |          |
|----------------------------------|----------|
| 1. Sen. Ledama Olekina, MP       | - Member |
| 2. Sen. David Wakoli, MP         | - Member |
| 3. Sen. Richard Onyonka, MP      | - Member |
| 4. Sen. Joseph Githuku Kamau, MP | - Member |

**SENATE SECRETARIAT**

- |                         |                           |
|-------------------------|---------------------------|
| 1. Mr. Humphrey Ringera | - Senior Research Officer |
| 2. Mr. David Ngamate    | - Clerk Assistant         |
| 3. Mr. Gilbert Juma     | - Legal Counsel           |
| 4. Ms. Lilian Onyari    | - Fiscal Analyst          |
| 5. Mr. David Munene     | - Research Officer        |
| 6. Mr. Ian Otieno       | - Audio Assistant         |
| 7. Mr. Jack Lemeteki    | - Media Relations Officer |
| 8. Ms. Ivy Marubu       | - Intern                  |

**MIN/SEN/SCH/354/2025**

**PRELIMINARIES**

The meeting was called to order at twenty-two minutes past eleven o'clock and the proceedings commenced with a word of prayer and brief introductions of those present.

**MIN/SEN/SCH/355/2025**

**ADOPTION OF THE AGENDA**

The agenda of the meeting was adopted after being proposed by Sen. Mariam Sheikh Omar, MP, and seconded by Sen. Tabitha Mutinda, MP, as listed below-

1. Preliminaries;
  - a) *Prayer*
  - b) *Introductions*
2. Adoption of the Agenda;
3. Confirmation of Minutes of the previous Committee meetings
  - a) *Minutes of the 57<sup>th</sup> Sitting of the Committee held on 28<sup>th</sup> October, 2025;*
  - b) *Minutes of the 58<sup>th</sup> Sitting of the Committee held on 30<sup>th</sup> October, 2025;*
  - c) *Minutes of the 60<sup>th</sup> Sitting of the Committee held on 6<sup>th</sup> November, 2025; and*
  - d) *Minutes of the 65<sup>th</sup> Sitting of the Committee held on 13<sup>th</sup> November, 2025*
4. Matters Arising from the Minutes of the previous meetings;
5. Consideration of the Health (Amendments) Bill (Senate Bills No. 12 of 2025) (*Committee Paper No. 152*);
6. Any other Business; and
7. Adjournment/Date of the Next Meeting

**MIN/SEN/SCH/356/2025**

**CONFIRMATION OF MINUTES OF THE PREVIOUS MEETING**

- a) The Minutes of the 57<sup>th</sup> meeting held on Tuesday, 28<sup>th</sup> October, 2025 were confirmed as a true record of the proceedings having been proposed by Sen. Mariam Sheikh Omar, MP, and seconded by Sen. Tabitha Mutinda, MP; and
- b) The Minutes of the 58<sup>th</sup> meeting held on Thursday, 30<sup>th</sup> October 7, 2025 were confirmed as a true record of the proceedings having been proposed by Sen. Tabitha Mutinda, MP, and seconded by Sen. Mariam Sheikh Omar, MP.

**MIN/SEN/SCH/357/2025**

**MATTERS ARISING FROM THE MINUTES OF THE PREVIOUS MEETING**

There were no matters arising from Minutes of the previous Committee meetings

**MIN/SEN/SCH/358/2025**

**CONSIDERATION OF THE HEALTH (AMENDMENTS) BILL (SENATE BILLS NO. 12 OF 2025) (COMMITTEE PAPER NO. 152);**

1. The Secretariat presented for consideration the Health (Amendments) Bill (Senate Bills No. 12 of 2025) as contained in Committee considered the *Committee Paper No. 152*

## Committee Observations

2. During its consideration the Committee observed that-
  - a) The World Health Organization in its paper Titled *“Ending Hospital Detention for Nonpayment of Bills: Legal and Health Financing Options”* published in the year 2020, advises members that no person should be detained in a hospital against their will for non-payment of bills and user fees. Nor should the remains of a deceased patient be withheld and not released for unpaid hospital bills and user fees;
  - b) WHO has further advised that the legal options available to end the practice of hospital detention for non-payment of bills and user fees, includes prohibition of the practice of hospital detention; recognizing international human rights in national legislation; committing to Universal Healthcare Coverage in domestic laws; ensuring proper implementation and enforcement mechanisms; and establishing information and reporting mechanisms;
  - c) Kenya has ratified and domesticated a number of International Human Rights instruments including the International Covenant on Civil and Political Rights, International Covenant on Socio-economic and Cultural Rights and the Universal Declaration on Human Rights. Article 11 of the ICCPR for example provides that no one shall be imprisoned merely on the ground of inability to fulfil a contractual obligation. This provision prohibits the deprivation of personal liberty for failure to pay a debt. It is for this reason that the act of detaining a patient as a lien for payment of medical fees is not only immoral but also illegal and violates the International Human Rights instruments which are the foundation of the Bill of Rights under Chapter 4 of the Kenyan Constitution.
3. The Committee further observed that The High Court of Kenya has also pronounced itself on the issue of hospital detentions
4. The Committee observed that the Bill aligns with Kenya’s constitutional rights to human dignity provided under Article 28, freedom of movement anchored under Article 39, and protection from arbitrary detention protected under Article 29 of the Constitution which are all threatened by the act of hospital detention. Hospital detention constitutes cruel, inhuman, and degrading treatment, violating patients’ right to dignity.
5. Following its consideration, the Committee recommended that the Senate passes the Bill without amendments.

MIN/SEN/SCH/359/2025

ANY OTHER BUSINESS

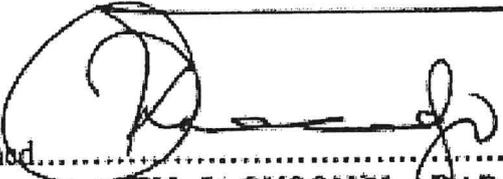
1. The Committee resolved that necessary arrangements be made during oversight visits to provide an update of the different legislative business such as Bills, Motions and Petitions being considered to raise awareness on its functions and mandate; and

2. The Committee to be updated frequently on different statutory instruments tabled in Parliament (both Houses) touching on its mandate

MIN/SEN/SCH/360/2025

ADJOURNMENT

There being no other business, the meeting ended at twenty-four minutes past twelve o'clock. The next meeting shall be held on notice.

Signed.....  ..... Date..... 26/11/2025 .....

**SEN. JACKSON K. ABAP MANDAGO, EGH, MP,**  
**CHAIRPERSON, STANDING COMMITTEE ON HEALTH.**



**13<sup>TH</sup> PARLIAMENT | 4<sup>TH</sup> SESSION**

**MINUTES OF THE SIXTY-FIFTH (65<sup>TH</sup>) HYBRID SITTING OF THE STANDING COMMITTEE ON HEALTH HELD ON THURSDAY, 13<sup>TH</sup> NOVEMBER, 2025 AT 11.00 AM IN COMMITTEE ROOM 6, BUNGE TOWER AND ON ZOOM MEETING PLATFORM**

**MEMBERS PRESENT**

- |  |                    |
|--|--------------------|
| 1. Sen. Jackson K. Arap Mandago, EGH, MP | - Chairperson      |
| 2. Sen. Mariam Sheikh Omar, MP           | - Vice-Chairperson |
| 3. Sen. Richard Onyonka, MP              | - Member           |
| 4. Sen. Joseph Githuku Kamau, MP         | - Member           |
| 5. Sen. Hamida Kibwana, MP               | - Member           |

**ABSENT WITH APOLOGY**

- |  |          |
|--|----------|
| 1. Sen. Justice (Rtd) Stewart Madzayo, EGH, MP | - Member |
| 2. Sen. Ledama Olekina, MP                     | - Member |
| 3. Sen. David Wakoli, MP                       | - Member |
| 4. Sen. Tabitha Mutinda, MP                    | - Member |

**SENATE SECRETARIAT**

- |                          |                           |
|--------------------------|---------------------------|
| 1. Mr. Humphrey Riingera | - Senior Research Officer |
| 2. Mr. David Ngamate     | - Clerk Assistant         |
| 3. Mr. Gilbert Juma      | - Legal Counsel           |
| 4. Ms. Lilian Onyari     | - Fiscal Analyst          |
| 5. Mr. David Munene      | - Research Officer        |
| 6. Mr. Ian Otieno        | - Audio Assistant         |
| 7. Ms. Ilhan Ahmed       | - Attache                 |

**MIN/SEN/SCH/337/2025**

**PRELIMINARIES**

The meeting was called to order at twenty-four minutes past eleven o'clock and the proceedings commenced with a word of prayer and brief introductions of those present.

**MIN/SEN/SCH/338/2025**

**ADOPTION OF THE AGENDA**

The agenda of the meeting was adopted with amendments after being proposed by Sen. Mariam Sheikh Omar, MP, and seconded by Sen. Hamida Kibwana, MP, as listed below-

1. Preliminaries;
  - a) *Prayer*
  - b) *Introductions*
2. Adoption of the Agenda;
3. Confirmation of Minutes of the previous Committee meetings;
  - a) *Minutes of the 49<sup>th</sup> Sitting of the Committee held on 25<sup>th</sup> September 2025; and*
  - b) *Minutes of the 61<sup>st</sup> Sitting of the Committee held on 11<sup>th</sup> November 2025*
4. Matters Arising from the Minutes of the previous meetings;
5. Consideration of the Health (Amendments) Bill (Senate Bills No. 12 of 2025) (*Committee paper No. 152*);
6. Any other Business; and
7. Adjournment/Date of the Next Meeting

**MIN/SEN/SCH/339/2025**

**CONFIRMATION OF MINUTES OF THE PREVIOUS MEETING**

- a) The Minutes of the 49<sup>th</sup> meeting held on Thursday 25<sup>th</sup> September, 2025 at 11.00am were confirmed as a true record of the proceedings having been proposed by Sen. Mariam Sheikh Omar, MP, and seconded by Sen. Richard Onyonka, MP; and
- b) The Minutes of the 63<sup>rd</sup> meeting held on Tuesday 11<sup>th</sup> November 7, 2025 were confirmed as a true record of the proceedings having been proposed by Sen. Hamida Kibwana, MP, and seconded by Sen. Joseph Githuku Kamau, MP;
- c) The Minutes of the 64<sup>th</sup> meeting held on Tuesday 11<sup>th</sup> November 7, 2025 were confirmed as a true record of the proceedings having been proposed by Sen. Hamida Kibwana, MP, and seconded by Sen. Joseph Githuku Kamau, MP.

**MIN/SEN/SCH/340/2025**

**MATTERS ARISING FROM THE MINUTES OF THE PREVIOUS MEETING**

There were no matters arising.

**MIN/SEN/SCH/341/2025**

**CONSIDERATION OF THE HEALTH (AMENDMENTS) BILL (SENATE BILLS NO. 12 OF 2025) (COMMITTEE PAPER NO. 153);**

1. The Committee was informed that following the introduction of the Health (Amendments) Bill (Senate Bills No.12 of 2025), the Committee had facilitated public participation through public advertisements that appeared in both the *Daily Nation* and the *Standard Newspapers* on Wednesday, 30<sup>th</sup> September, 2025;

2. The Committee was further informed that invitations had been invited from the Ministry of Health, the Council of Governors, the Rural & Urban Private Hospitals Association (RUPHA), the Kenya Medical Practitioners and Dentists Union (KMPDU); and the Christian Health Association of Kenya;
3. The Committee was further informed that the public participation period had since lapsed and the Secretariat had processed the public representations by collating them in a matrix for Committee consideration.
4. The Committee resolved to consider the matrix in its next Sitting when majority of the Members would be available physically.

MIN/SEN/SCH/342/2025

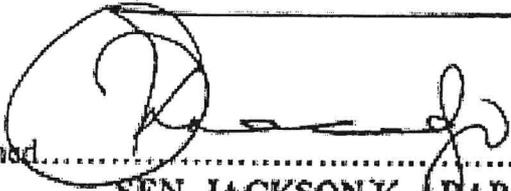
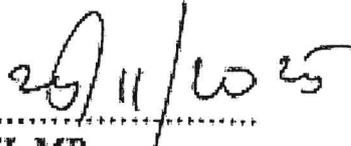
ANY OTHER BUSINESS

1. The Committee was informed that oversight visit to Bungoma and Kakamega counties had been approved and the secretariat had consequently communicated to the two counties to provide necessary support during the visit. Members were further urged to confirm their attendance for logistical arrangements; and
2. The Committee was informed that the Speaker of the Senate had declined a request by the Committee to undertake a foreign travel from 17<sup>th</sup> to 22<sup>nd</sup> November, 2025 on account that the House would be in Session. Consequently, Members were requested to propose a new date preferably during the December recess.

MIN/SEN/SCH/343/2025

ADJOURNMENT

There being no other business, the meeting ended at fifty-two minutes past eleven o'clock. The next meeting shall be held on notice.

Signed.......... Date..........  
**SEN. JACKSON K. ABAP MANDAGO, EGH, MP,**  
**CHAIRPERSON, STANDING COMMITTEE ON HEALTH.**

2

**Annex 2:**

**Copy of the the Health (Amendment) Bill,  
2025 (Senate Bills No. 12 of 2025)**



**SPECIAL ISSUE**

*Kenya Gazette Supplement No. 120 (Senate Bills No. 12)*

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REPUBLIC OF KENYA

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***KENYA GAZETTE SUPPLEMENT***

**SENATE BILLS, 2025**

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**NAIROBI, 18th July, 2025**

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**THE HEALTH (AMENDMENT) BILL, 2025**

**A Bill for**

**AN ACT of Parliament to amend the Health Act to prohibit the detention of patients and corpses of patients by health facilities**

**ENACTED** by the Parliament of Kenya as follows

—  
1. This Act may be cited as the Health (Amendment) Act, 2025.

Short title.

2. The Health Act is amended by inserting the following new section immediately after section 7 —

Insertion of new section 7A in Cap. 241.

Non-detention of patients by health facilities.

**7A.** (1) A health facility shall not detain a patient or the corpse of a patient as lien over an outstanding fee incurred in relation to the access of services in the health facility.

(2) A person in-charge of a health facility which contravenes subsection (1) commits an offence.

(3) The Cabinet Secretary may make regulations for recovery of fees paid to access services in a health facility.

## MEMORANDUM OF OBJECTS AND REASONS

### Statement of Objects and Reasons

This Bill seeks to amend the Health Act to prohibit the detention of patients and corpses of patients by health facilities.

Article 28 of the Constitution provides that *“every person has inherent dignity and the right to have the dignity respected and protected”* while Article 39(1) of the Constitution provides that *“every person has the right to freedom of movement”*.

Article 29(a) and (b) of the Constitution on the other hand states that *“every person has the right to freedom and security of the person, which includes the right not to be—*

- (a) deprived of freedom arbitrarily or without just cause;*
- (b) detained without trial, except during a state of emergency, in which case the detention is subject to Article 58;”*.

At the international front, there are international conventions and instruments which recognize human dignity, freedom, and respect. Article 2(6) of the Constitution stipulates that *“any treaty or convention ratified by Kenya shall form part of the law of Kenya under this Constitution”*.

Article 11 of the International Convention on Civil and Political Rights provides that no one shall be imprisoned merely for inability to pay a debt or discharge a contractual obligation. This refers to a situation where someone is committed to civil jail because he is unable to satisfy a decree.

Article 6 of the Africa Charter on Human and Peoples Rights provides that every individual shall have the right to liberty and to the security of his person. No one may be deprived of his freedom except for reasons and conditions previously laid down by the law. In particular, no one may be arbitrarily arrested or detained.

These international instruments support the protection of fundamental human rights that the right to liberty is inviolable except in accordance with the law.

Our courts have on numerous occasions been faced with cases on the detention of patients by hospitals for nonpayment of bills. Most courts have in such instances held the view that detention of petitioners for their inability to pay their medical bills is unlawful, arbitrary and unconstitutional.

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

The Bill delegates legislative powers to the Cabinet Secretary responsible for health to make regulations for recovery of fees paid to access services in a health facility.

The Bill does not limit any fundamental right or freedom.

**Statement of how the Bill concerns County Governments**

The Bill concerns county governments as it contains provisions relating to the treatment of patients and corpses of patients after accessing services in health facilities. Paragraph 2 of Part II of the Fourth Schedule to the Constitution designates county health services as county governments' functions.

The Bill therefore affects the functions and powers of county governments in terms of 110(1)(a) of the Constitution

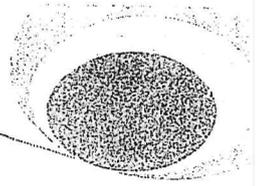
**Statement that the Bill is not a money Bill within the meaning of Article 114 of the Constitution**

The Bill deals with matters other than those listed in the definition of a money Bill under Article 114 (3) of the Constitution and is therefore not a money Bill within the meaning of Article 114 of the Constitution.

Dated the 16th July, 2025.

MOGENI ERICK OKONG'O,  
*Senator.*





PARLIAMENT OF KENYA

THE SENATE

SENATE BILLS DIGEST

THE HEALTH (AMENDMENT) BILL, 2025

(SENATE BILLS NO. 12 OF 2025)

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<b>Sponsor:</b>	Sen. Mogeni Erick Okong'o, M.P
<b>Committee referred to:</b>	Standing Committee on Health
<b>Type of Bill:</b>	Ordinary Bill
<b>Date of First Reading:</b>	23 <sup>rd</sup> September, 2025

1. **Background**

The right to human dignity, freedom of movement, and liberty are fundamental constitutional rights in Kenya. Article 28 of the Constitution safeguards every person right to inherent dignity while Article 39(1) of the Constitution guarantees every person's right to freedom of movement. Article 29 (a) and (b) of the Constitution further provides that every person has the right to freedom and security of the person, which includes the right not to be deprived of freedom arbitrarily or without just cause, or detained without trial except during a state of emergency.

Currently, there have been numerous cases where health facilities have detained patients and corpses of patients as security for unpaid medical bills. Kenyan courts have consistently ruled that such detention for inability to pay medical bills is unlawful, arbitrary and unconstitutional. For example, the High court in the case of *Emmah Muthoni Njeri v Nairobi Women's Hospital [2021] KEHC 8797 (KLR)* stated as follows at paragraph 47 of the judgement "*The Respondent herein is not empowered under the law to hold any person within the hospital for failure to pay medical bills. The Respondent's action of holding the*



*Petitioner over an unpaid medical bill makes it culpable for illegally detaining the Petitioner. Although the Petitioner was in breach of her contractual obligation to pay her bill, the Respondent had other options open to it to recover the debt and should not have detained the Petitioner.”*

Despite clear pronouncements by the courts over the matter, the practice of detaining patients over unpaid medical bills continues to occur due to the absence of specific legislative prohibition.

The Health (Amendment) Bill, 2025 (Senate Bills No. 12 of 2025) was published in the Kenya Gazette Supplement No. 120 on 18<sup>th</sup> July, 2025 to address this constitutional violation by explicitly prohibiting the detention of patients and corpses by health facilities.

## **2. Purpose of the Bill**

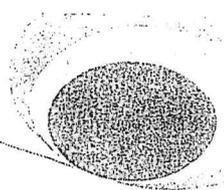
The Health (Amendment) Bill, 2025 seeks to—

- (a) amend the Health Act to prohibit the detention of patients and corpses of patients by health facilities;
- (b) give effect to Articles 28, 29, and 39 of the Constitution regarding human dignity, freedom and security of person, and freedom of movement;
- (c) align domestic law with international instruments including Article 11 of the International Convention on Civil and Political Rights and Article 6 of the African Charter on Human and Peoples Rights; and
- (d) provide alternative mechanisms for recovery of fees paid to access health services

## **3. Overview of the Bill**

The Bill introduces a new section 7A to the Health Act with the following key provisions;

- **Prohibition of detention of a patient** - A health facility shall not detain a patient or the corpse of a patient as lien over an outstanding fee incurred in relation to accessing services in the health facility.
- **Criminal offence** - A person in-charge of a health facility who detains a patient over an outstanding fee commits an offence under the law. The applicable penalty shall



be the general penalty provided under section 111 of the Health Act Cap 241 which provides that a person convicted of an offence under the Act for which no penalty is provided shall, on conviction, be liable to a fine not exceeding two million shillings or to imprisonment for a term of three months, or both.

- **Alternative recovery mechanisms:** The Cabinet Secretary is empowered to make regulations for recovery of fees paid to access services in a health facility.

#### 4. What are the implications of the law once passed?

Once enacted, the Health (Amendment) Act, 2025 will have significant implications for the healthcare sector in Kenya. Health facilities will be legally prohibited from detaining patients or corpses as security for unpaid medical bills, with facility managers facing criminal liability for violations. This will enhance protection of patients' constitutional rights to dignity, freedom, and liberty while requiring health facilities to develop alternative debt recovery mechanisms in line with regulations to be developed by the Cabinet Secretary.

County governments will also need to ensure compliance across all health facilities under their jurisdiction and may need to revise their health service delivery policies. The law is expected to reduce healthcare related human rights violations, improve access to healthcare services, and restore public confidence in the health system.

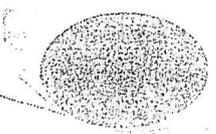
#### 5. Way Forward

##### *What next?*

Pursuant to standing order 145(5) of the Senate Standing Orders, the Standing Committee on Health shall facilitate public participation and shall take into account the views and recommendations of the public when the Committee submits its report to the Senate.

##### *What is expected of the members of public?*

The members of the public are expected to present their views to the Standing Committee on Health for its consideration.



*Next steps*

The Bill was read a First Time in the Senate on 23<sup>rd</sup> September, 2025. Pursuant to standing order 148(1) of the Senate Standing Orders, the Standing Committee on Health is required to submit its report to the Senate within thirty (30) calendar days of the committal of the Bill to the Committee, therefore, by 22<sup>nd</sup> October, 2025.

**Any comments on the Bill may be submitted to the Office of the Clerk of the Senate, 1<sup>st</sup> Floor, Main Parliament Buildings, Nairobi, Kenya, through P.O. Box 41842-00100, Nairobi, Kenya or email: [clerk.senate@parliament.go.ke](mailto:clerk.senate@parliament.go.ke) and copied to [healthcommittee.senate@parliament.go.ke](mailto:healthcommittee.senate@parliament.go.ke).**

**Note:**

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

3

## **Annex 3:**

### **Advertisement as published in the Media**



# National News

**Tightening noose** TSC received 111 cases of alleged sexual abuse of learners by teachers in 2024

BY WINNIE ATIENO

## Ministry steps up bid to curb teen pregnancy in schools

The Ministry of Education will establish a special unit to tackle the alarming rates of teenage pregnancy in schools and sexual exploitation of learners by teachers.

Education Cabinet Secretary Julius Ogamba issued the directive following a meeting with the Senate Education Committee in Mombasa County.

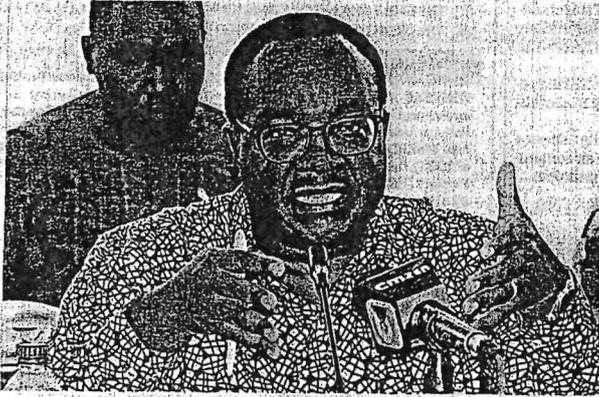
Nominated Senator Catherine Mumma, who chaired the session, raised concern about the prevalence of teen pregnancy and the effectiveness of the policy on reintegration of young mothers into schools.

She urged Mr Ogamba to take decisive action to protect both girls and boys, arguing that sexual exploitation is a major crisis that is often ignored.

The senator also asked the Teachers Service Commission (TSC) to stop transferring teachers who have been found guilty of defilement. She said there is a risk of the culprits preying on other children.

"We are killing our girls. And it's not just girls; we are also killing the boys. A lot of sodomy is happening. All teachers involved in defilement of students should never be transferred to other schools. That is happening, yet chances of them repeating the

CS Ogamba acknowledges severity of the issue, says a special unit will be formed to handle it



Education CS Julius Ogamba responds to questions raised by members of the Senate Education Committee in Mombasa on September 26. KEVIN ODITI/NATION

**When a teacher is found guilty, he or she is dismissed and deregistered**

TSC Director for Legal, Labour and Industrial Relations Cavin Anyuor

“

deal with such cases.

"When a teacher is found guilty, he or she is dismissed and deregistered," Mr Anyuor told the Senate committee earlier.

He said that out of the 111 cases, 69 teachers were dismissed and removed from the register. However, there is no evidence to show that they were prosecuted in a court of law.

"Those who have been deregistered cannot teach anywhere in the world. Their licences have been revoked by the commission. Nine other teachers were dismissed, but their licences were not revoked, while 25 were suspended. In four cases, the teachers were found innocent and their interdictions were revoked," Mr Anyuor said.

"Three cases were cancelled because the affected teachers had passed away by the time we were calling them for disciplinary proceedings," the TSC official said.

Mr Anyuor said people can report cases of misconduct by teachers to the TSC secretary, county director, head of institutions, secretary to the board, board of management or law enforcement agencies. He said incidences of learner abuse should be reported within 24 hours. Failure to report is an offence.

"There is a free hotline for reporting cases of sexual abuse. We also have a public email where anonymous reports can be made," Mr Anyuor said.

CS Ogamba acknowledged the severity of the issue, referring to teenage pregnancy and sex education as a "hot potato".

Senator Betty Montet said the debate on sex education has been dragging on for too long because religious institutions have not agreed on the content to teach learners.

watieno@ke.nationmedia.com



REPUBLIC OF KENYA  
THIRTEENTH PARLIAMENT | FOURTH SESSION  
THE SENATE

### INVITATION FOR SUBMISSION OF MEMORANDA

#### THE HEALTH (AMENDMENT) BILL, 2025 (SENATE BILLS NO. 12 OF 2025)

The Health (Amendment) Bill, 2025 (Senate Bills No. 12 of 2025) was read a First Time in the Senate on Tuesday, 23<sup>rd</sup> September, 2025 and thereafter stood committed to the Standing Committee on Health for consideration. The Committee is required, under Standing order 145(5) of the Senate Standing Orders, to facilitate public participation on the Bill and to take into account the views and recommendations of the public when the Committee makes its report to the Senate.

The Bill seeks to amend the Health Act to prohibit the detention of patients and corpses of patients by health facilities. The Bill further seeks to give effect to Articles 28, 29 and 39 of the Constitution regarding human dignity, freedom and security of persons and freedom of movement.

In accordance with the provisions of Article 118 of the Constitution and standing order 145(5) of the Senate Standing Orders, the Standing Committee on Health now invites interested members of the public to submit any representations that they may have on the Bill by way of written memoranda.

The memoranda may be submitted to the Clerk of the Senate, P.O. Box 41842-00100, Nairobi, hand-delivered to the Office of the Clerk of the Senate, Main Parliament Buildings, Nairobi or emailed to [clerk.senate@parliament.go.ke](mailto:clerk.senate@parliament.go.ke) and copied to [healthcommittee.senate@parliament.go.ke](mailto:healthcommittee.senate@parliament.go.ke) to be received on or before Friday, 17<sup>th</sup> October, 2025 at 5.00 p.m.

The Bill and a digest that summarizes the contents and context of the Bill may be accessed on the Parliament website at <http://www.parliament.go.ke/the-senate/house-business/bills>.

J. M. NYEGENYE, CBS,  
CLERK OF THE SENATE.



KENYA PORTS AUTHORITY PENSION SCHEME

P.O. Box 1019-80100, Mombasa, Kenya | Tel: 0768-777-444 | Email: [info@kppension.co.ke](mailto:info@kppension.co.ke)

### NOTICE OF THE ANNUAL GENERAL MEETING 2024 (DB SCHEME)

NOTICE IS HEREBY GIVEN that the 18<sup>th</sup> Annual General Meeting of Kenya Ports Authority Pension Scheme (DB Scheme) will be held on Friday, 17<sup>th</sup> October 2025, starting at 9.00am at Kisumu Port (Pier). Pensioners from all regions, contributing and deferred members of KPA Pension Scheme (DB Scheme) are requested to attend the Annual General Meeting to transact the following business.

1. Reading of the Notice and Agenda
2. Opening of the Meeting and Introductions
3. Consideration and Adoption of the Minutes of the Last AGM
4. Report by the Chair of the Board of Trustees
5. Report by the Managing Director (Sponsor)
6. Presentation of the Audited Accounts for the year ended December 31, 2024, by the Scheme Auditor
7. Presentation of the Investment Report by the Scheme's Fund Managers
8. Presentation of the Custodial Report by the Scheme's Fund Custodian
9. Presentation of the Structure of Benefits by the Scheme Actuary
10. Presentation on Retirement Benefits Industry Changes by a representative from the Retirement Benefits Authority
11. Questions and Answers
12. Vote of Thanks

#### IMPORTANT NOTES FOR MEMBERS

- **Identification:** Members are requested to bring appropriate identification documents and to be seated by 8:45 AM.
- **Access to Documents:** Copies of the Scheme's Audited Accounts will be available for perusal at the Scheme's registered offices or can be downloaded from the Scheme's website at [www.kppension.co.ke](http://www.kppension.co.ke).
- **Travel Costs:** Please note that the cost of travel and attendance is NON-REFUNDABLE.

By Order of the Board,

Bernard Kibet  
Scheme Administrator

Dated: 1<sup>st</sup> October 2025



# How KQ's Sh387b dream crashed before takeoff

An ambitious multi-billion plan to dominate African skies collapsed, leaving the national carrier in debt.

Project Mawingu's failure, the O says, crippled the airline and now warns profit unsustainable without fresh capital.

By GITHINJI, NAIROBI

A parliamentary committee has heard that Kenya Airways (KQ) ambitious Project Mawingu, once touted as a game-changing national carrier, became one of the most expensive ventures that ultimately failed to take off. Appearing before the National Assembly's Public Debt and Privatisation Committee, KQ CEO Allan Kilaavuka revealed that the airline's ambitious expansion plan, valued at approximately Sh387 billion (US\$

billion) was based on economic and market assumptions that did not materialise, leaving the airline burdened with unsustainable debt and eroded equity.

Kilaavuka explained that Project Mawingu, launched in 2012, aimed to transform KQ into a global aviation powerhouse with 119 destinations by 2021. However, the plan collapsed under the weight of over-ambitious aircraft acquisitions, high financing costs, and overestimated market growth projections.

The strategy was to grow the fleet from 31 to 107 passenger aircraft and 12 freighters for cargo. It was a vision based on optimistic assumptions, including post-recession recovery, 5.3 per cent economic growth, and increasing demand from emerging markets, Kilaavuka told MPs.

Following the collapse of Mawingu, KQ pursued other restructuring initiatives, Project Safari and Project Kifaru, but these too struggled under the weight of rising losses and heavy borrowing.



Allan Kilaavuka, Kenya Airways Group MD and CEO. [Wilberforce Okwiri, Standard]

In 2022, as part of Project Kifaru, the Cabinet approved a Sh43 billion (US\$363 million) government-backed restructuring programme. However, the national treasury has since had to repay billions in guaranteed loans, often converting debt into equity.

Kilaavuka disclosed that Sh21.58 billion (\$167 million) owed to 10 local banks was converted into equity, giving lenders a 38 per cent stake in the airline. A further Sh19.69 billion in government-guaranteed loans was paid on KQ's behalf in January 2025. KQ couldn't meet its obligations

due to severe cash flow constraints, worsened by the Covid-19 pandemic. A shareholder loan agreement between the government and KQ is being finalised and is expected to be signed within two months, he added.

However, MPs expressed concerns over the valuation process behind the equity conversion and questioned the government's continued financial involvement.

Kinangop MP Kwenya Thuku queried the total value of loans advanced and how the 38 per cent equity stake compared to the Sh17 billion the gov-

ernment paid banks between 2017 and 2019.

Nyaribari Masaba MP Daniel Manduku also pressed for clarity on how KQ intends to repay the estimated Sh70 billion injected by the government, warning that taxpayers are shouldering a burden without a clear repayment timeline.

### More funding needed

"KQ posted a record profit of Sh5.4 billion last year. Will this trend continue, and when will the airline stop relying on public funds?", asked Manduku. Kilaavuka attributed last year's profit to a combination of factors, including carrying 5.3 million passengers, generating Sh188 billion in revenue, a relatively stable exchange rate, and the effects of Project Kifaru.

"Profitability does not guarantee sustainability," he said. "To remain viable, we need significant capital injection or a strategic investor to reduce dependence on the state." So far, only Sh12.9 billion (\$100 million) of the projected Sh51.7 billion (\$400 million) required for full turnaround has been received.

"Without an investor, our turnaround is not assured. Despite strong demand, we're operating at 80 per cent capacity and losing market share," he said. To date, the government has injected over Sh70 billion into Kenya Airways, with further loan agreements pending Treasury approval. [githinji@standardmedia.co.ke](mailto:githinji@standardmedia.co.ke)

# Court orders detention of six police officers over arms ring

Nairobi court has ordered six police officers held for 10 days as investigators pursue charges of illegal firearms and ammunition trafficking in Turkana. The decision came after prosecutors argued that further detention was necessary for a thorough investigation.

Magistrate Lucas Onyina granted the order by the Directorate of Criminal Investigation (DCI) and the Director of Public Prosecution (DPP) to hold the accused, Charles Lotira (a prison officer), Ileri Cyrus Kisamwa, Muthi Mutongu, Wesley Sang, Paul Mutitu and Isaac Kipngetich, at the Capital Police Station pending completion of investigations.

In his ruling, Magistrate Onyina held that the detention had met the constitutional threshold under Article 49, which ensures defendants are informed of charges or reasons for continued detention at their first court appearance. He found that the investigating officer had presented compelling evidence justifying the 10-day detention.

The evidence, including ballistic analysis of the seized firearm and magazines, digital forensic data from mobile phones, tracing of accounts in Nairobi and Turkana, and intentions to transport additional exhibits from armouries. The prosecution also referenced affidavits submitted by Senior Police Officer Hilary Kimoyo on September 29, 2025, which outlined the scope of the investigation and warned of possible interference if the respondents were released. "While it is not disputed that the respondents have residences, which have already been searched, I find

the prosecution has demonstrated a real possibility of interference with ongoing investigations if they are released at this stage," he stated.

The DCI informed the court that the six officers face multiple allegations, including possession of ammunition in contravention of Section 4A(1)(a) of the Firearms Act, possession of a firearm without a valid certificate, conspiracy to commit a felony under Section 393 of the Penal Code, and unlawful possession of government stores under Section 324.

According to court filings, Kisamwa and Mutongu, both attached to Nairobi Central Police armoury, allegedly transported ammunition from government stores. Ekidor, the prison officer, was to receive and distribute it in Lodwar for resale. Intelligence further implicated Ekidor in trafficking ammunition at Lokichogio Market near the Kenya-South Sudan border.

The DCI also alleged that Sang and Tonui controlled the keys to armoury stores containing a pistol, magazines and additional ammunition. Affidavits by Corporal Kimuyu revealed that, following intelligence reports, arrests were made in Nairobi and Eldoret.

Officer Kipngetich, serving in Turkana's armoury, was arrested on Uhuru Highway while transporting 1,007 rounds of ammunition in a small Toyota Passo.

Defence lawyers Danstan-Omari and Cliff Ombeta urged the court to dismiss the DCI's request, arguing their clients were not flight risks and could be easily traced. The matter is due to be mentioned again on October 9, 2025 for further directions. [Nancy Gitonga]



REPUBLIC OF KENYA  
THIRTEENTH PARLIAMENT | FOURTH SESSION  
THE SENATE

## INVITATION FOR SUBMISSION OF MEMORANDA THE HEALTH (AMENDMENT) BILL, 2025 (SENATE BILLS NO. 12 OF 2025)

The Health (Amendment) Bill, 2025 (Senate Bills No. 12 of 2025) was read a First Time in the Senate on Tuesday, 23<sup>rd</sup> September, 2025 and thereafter stood committed to the Standing Committee on Health for consideration. The Committee is required, under Standing order 145(5) of the Senate Standing Orders, to facilitate public participation on the Bill and to take into account the views and recommendations of the public when the Committee makes its report to the Senate.

The Bill seeks to amend the Health Act to prohibit the detention of patients and corpses of patients by health facilities. The Bill further seeks to give effect to Articles 28, 29 and 39 of the Constitution regarding human dignity, freedom and security of persons and freedom of movement.

In accordance with the provisions of Article 118 of the Constitution and standing order 145(5) of the Senate Standing Orders, the Standing Committee on Health now invites interested members of the public to submit any representations that they may have on the Bill by way of written memoranda.

The memoranda may be submitted to the Clerk of the Senate, P.O. Box 41842-00100, Nairobi, hand-delivered to the Office of the Clerk of the Senate, Main Parliament Buildings, Nairobi or emailed to [clerk.senate@parliament.go.ke](mailto:clerk.senate@parliament.go.ke) and copied to [healthcommittee.senate@parliament.go.ke](mailto:healthcommittee.senate@parliament.go.ke) to be received on or before Friday, 17<sup>th</sup> October, 2025 at 5.00 p.m.

The Bill and a digest that summarizes the contents and context of the Bill may be accessed on the Parliament website at: <http://www.parliament.go.ke/the-senate/house-business/bills>.

J. M. NYEGENYE, CBS,  
CLERK OF THE SENATE.



## **Annex 4:**

# **Matrix on Stakeholder Submissions**



**THE SENATE STANDING COMMITTEE ON HEALTH  
STAKEHOLDER VIEWS ON THE HEALTH AMENDMENT BILL, 2025**

(SENATE 12 OF 2025)

CLAUSE	STAKEHOLDER	PROPOSAL	RATIONALE	COMMITTEE OBSERVATIONS
Clause 7	Ministry of Health	Delete the clause	<p>(a) Mortuary services are categorized as billable, and are therefore subject to applicable fees and charges as per the institutions approved rates. Charging of such services cannot therefore be criminalized as proposed.</p> <p>(b) Further, these services, are already provided for under the tariffs for healthcare under the social health insurance scheme so as to alleviate any financial burdens that may be experienced.</p> <p>The issue of non-payment of fees should be handled administratively.</p>	<p><b>Rejected</b></p> <p>(1) The Ministry of Health opposes the Bill, arguing that mortuary services are billable and therefore charging of these services cannot be criminalized. The Bill does not criminalize mortuary services but rather, criminalizes the act of detaining a patient or a corpse of a patient for non-payment of medical fees. This position has been affirmed by the High Court in the case of <i>Emmah Muthoni Njeri v Nairobi Women's Hospital [2021] KEHC 8797 (KLR)</i>.</p> <p>(2) Hospital detention directly conflicts with Universal Healthcare objectives by preventing patients from accessing needed services due to fear of detention, contradicting patient-centered quality care, and</p>

				<p>exposing patients to financial hardship. The practice creates a deterrent effect, preventing patients from seeking care if they lack sufficient means to pay.</p> <p>(3) The Ministry correctly notes that charging medical fees for patients and mortuary fees is already covered under the tariffs for healthcare under the Social Health Insurance scheme so as to alleviate any financial burdens that may be experienced. This observation actually supports rather than undermine the Bill. If services are covered by social health insurance, the incidence of unpaid bills should decrease significantly, making detention even less justifiable. The Ministry's own policy framework (Social Health Insurance Fund) is designed to prevent the very situations that lead to detention.</p> <p>(4) The proposed Section 7A (3) empowers the Cabinet Secretary to make regulations for recovery of fees paid to access services in a health facility.</p>
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	Aga Khan Health Services	Delete the clause or provide an alternative provision that provides for the criminalization of patients who refuse to pay for services in order to protect the hospitals right to property under Article 40 of the Constitution.	<p>(a) The Bill protects patient rights (Articles 28, 29, 39: dignity, security, movement) but fails to protect health facilities' property rights under Article 40 (right to collect fees for services rendered).</p> <p>(b) While patient rights are provided for in the primary legislation, health facility rights are relegated to subsidiary regulations, creating a hierarchy of laws that devalues provider interests.</p> <p>(c) Private facilities operate without government subsidies, relying entirely on patient payments and therefore unpaid bills directly threaten operational capacity such as inability to pay staff salaries, equipment maintenance, medicine stocks, and emergency readiness. There is also a risk of facility closures due to revenue losses.</p> <p>(d) While the health facilities enter into contractual agreements with patients for provision of health services, patients and families increasingly refuse payment and</p>	<p>This provision explicitly protects facility interests by providing a regulatory framework for fee recovery. Administrative procedures for debt recovery would be better addressed through subsidiary.</p> <p><b>Rejected</b></p> <p>(a) <i>The High Court in the case of Emmah Muthoni Njeri v Nairobi Hospital [2021] KEHC 8797 (KLR)</i> has already ruled that detention of patients for recovery of medical fees is unconstitutional.</p> <p>(b) While freedom of contract is a well-known concept of contract law, agreeing to contract that allows for detention of a patient for failure to pay medical fees would be unconstitutional.</p> <p>(c) Article 11 of the International Covenant on Civil and Political Rights (ICCPR) further prohibits imprisonment for inability to fulfill a contractual obligation</p>
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		<p>decline transfers to affordable facilities. It is even worse in the case foreign patients who obtain court orders for discharge/release then leave the country, abandoning legal proceedings.</p> <p>(e) Court petitions are used tactically with media publicity to pressure facilities, causing reputational damage. Further, Civil court judgments remain unenforceable “paper judgments” and that even successful court cases rarely award costs to facilities, leaving them with additional legal expense.</p> <p>(f) The amendment creates a passive incentive for intentional non-payment since facilities lose all leverage and also undermines existing contractual relationships and freedom of contract.</p> <p>(g) The stakeholder further states that under the Kenya National Patients’ Rights Charter 2023 patients have the responsibility to enquire about costs and arrange payment. They are therefore expected to choose facilities they can afford. Further, under the Kenya Health Sector Referral Implementation Guidelines 2014, lack of financial resources is a legitimate ground for patient referral and the patients/next of kin must consent to transfers or sign forms</p>	<p>(d) If patient refuses transfer against medical advice, this should be documented, but it does not create a right to detain. The facility’s remedy remains civil debt recovery.</p> <p>(e) Exempting private health facilities from Section 7A application would create a two-tier system where constitutional rights apply in public hospitals but not private ones. Constitutional rights are universal and cannot be selectively applied based on facility ownership. The WHO position is clear that detention should be prohibited regardless of whether the facility is public or private.</p>
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			<p>indicating they act against medical advice. Most of these patients however refuse to be transferred to other hospitals.</p> <p>(h) The stakeholder cited the following four cases –</p> <p>(i) <i>Gideon Kilundo v Nairobi Women's Hospital</i> where the Court recognized competing rights and noted patients cannot expect free private care “under guise of constitutional protection”</p> <p>(ii) <i>Karen Hospital v Michael Omusula</i> where the Court allowed transfer based on financial incapacity and therefore lack of financial capacity is valid referral ground.</p> <p>(iii) <i>Ludindi Venant &amp; Anor vs Pandya Hospital [1998]</i> eKLR, where the court, even condemned the practice of detaining bodies it nevertheless 7 ordered the plaintiffs to provide an undertaking in damages limited to Kshs. 6,000,000/~ pending the hearing and determination of that suite.</p> <p>(iv) <i>Bldemi Steven Atuli Okorodudu v Aga Khan</i> where the Court balanced rights by requiring</p>
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		<p>passport surrender or security deposit for a foreign national.</p> <p>(i) The stakeholder therefore requests for the following interventions –</p> <p>(i) Exempt private health facilities from Section 7A application given their unique funding model</p> <p>(ii) Should the committee retain the clause, a new subsection should be included to provide –</p> <p><i>“A patient or client or user of a health facility who in respect to whom there will be an outstanding fee incurred in relation to the access of services in a health facility will ensure that the fee is fully paid or provide an acceptable enforceable undertaking to the health facility.”</i></p> <p>(iii) Delete the clause that provides the Cabinet Secretary with the powers to make regulations for recovery of fees paid to access in a health as facility as it goes against freedom of contract.</p> <p>(iv) Amend to criminalize patients who fail to adhere to their contract</p>	
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			to pay fees or honor their payment undertakings.	
Council of County Governors (COG)	Delete the provision that allows the cabinet secretary to make regulations on fees recovery	(a) The provision allows for the Cabinet Secretary for Health to micromanage counties yet health is a devolved function. (b) COG however, noted that the other provisions are okay.	<b>Rejected</b>	
Kenya Legal and Ethical Issues Network (KELIN).	Enhancement of the Bill.	The stakeholder suggests the following enhancements – (a) The preamble of the Bill needs to be made clearer to address the specific objects for legislating against detention for non-payment of hospital bills or medical expenses. (b) There is need for the definition of the term “detention” to ensure that all circumstances foreseen are captured in the Bill. (c) Prescribe a penalty for the office created (d) There is need for clarity as to whether the criminalization is only for detentions arising out of emergency care or in all instances since the amended section deals with emergency care (e) Suggest a redress mechanism for kins for detained patients	<b>Rejected</b>	

HT

	National Gender and Equality Commission (NGEC)	Amend the Bill by substituting the words "a health facility" with "Both Private and public facilities" Amend to also provide for a penalty of a fine not exceeding two million shillings. Amend to further provide that "the facility and the kin of a discharged patient and/or of the deceased shall agree on the modalities of payment of the outstanding charges."	The amendments are justified for the following reasons – (a) This is to make it clear that the provision will apply to both the Public and private health facilities. (b) There is need for a clear penalty for the facility officers who detain patients for the purpose of enforcing medical bills.	Rejected
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**National Gender and Equality Commission**

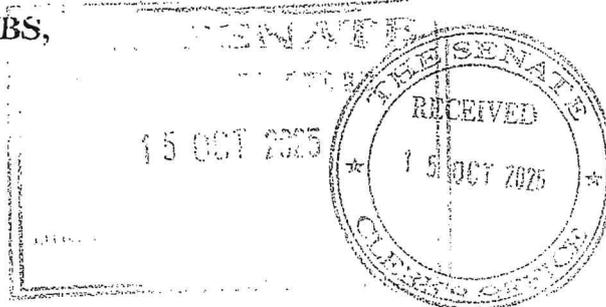
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Toll Free: 0800720187  
Email: info@ngeckkenya.org  
www.ngeckkenya.org

NGEC/CS/LEGAL/VOL.II(31)

14<sup>th</sup> October 2025

**NATIONAL GENDER AND EQUALITY COMMISSION**

Mr. Jeremiah. M. Nyegenye, CBS,  
The Clerk of the Senate  
Clerk's Chambers  
Parliament Building  
P.O. Box 41842-00100  
NAIROBI



[Clerk.senate@parliament.go.ke](mailto:Clerk.senate@parliament.go.ke)

Dear Mr. Nyegenye, CBS

**COMMENTS ON THE HEALTH (AMENDMENT) BILL, SENATE BILLS NO. 12 OF 2025**

Reference is made to your call for the submission of memoranda on The Health (Amendment) Bill 2025

Section 8 (b) of the National Gender and Equality Commission Act, CAP7K, mandates the Commission to, *monitor, facilitate and advise on the integration of the principles of equality and freedom from discrimination in all national and county policies, laws, and administrative regulations in all public and private institutions;*

In line with its mandate, the Commission presents to you a memorandum analyzing the proposed bill and making proposals where necessary.

Yours

**Purity Ngina, PhD, MBS  
COMMISSION SECRETARY/ CEO**

Mr. Ringera  
Kindly deal  
15/10/25

② DCEC (NK)  
Kindly deal  
15/10/2025

① DSEC  
DLS  
Note and deal  
15/10/2025







MEMORANDA: HEALTH (AMENDMENT) BILL No 12 OF 2025

S/NO	CLAUSE	PROPOSALS	JUSTIFICATION/COMMENTS
	<p><b>Clause 2</b> The Health Act is amended by inserting the following new section immediately after section 7-</p> <p><b>Non-detention of patients by health facilities</b></p> <p>7A. (1) A health facility shall not detain a patient or the corpse of a patient as lien over an outstanding fee incurred in relation to the access of services in the health facility.</p> <p>(2) A person in-charge of a health facility which contravenes subsection (1) commits an offence.</p>	<p>Propose to amend Clause 7A(1) as follows;- by substituting the phrase "a health facility" with "Both Private and public facilities"</p> <p>Propose to amend 7a(2) by attaching a penalty to the offence as follows- A person in charge of a health facility commits an offence if the person detains or permits the detention of a patient or the body of a deceased person for purposes of enforcing settlement of pending bills, and is</p>	<p>The Health Act interprets "Facility" to include private institutions. For emphasis</p> <p>The amendment will ensure that both private and public facilities do not demand prior fees before attending to patients admitted under emergency conditions, and that they do not detain patients who were admitted under emergency conditions, died at the facility (corpses).</p> <p>In the case where the patient is or the deceased was a registered member of the Social Insurance Fund, the process to claim the charges incurred will be initiated</p>



<p>(3) The Cabinet Secretary may make regulations for recovery of fees paid to access services in a health facility</p>	<p>liable on conviction to a fine not exceeding two million shillings</p> <p>Further amend as follows</p> <p>“A person in charge of a public health facility commits an offence, if the person demands or permits the demand of payment of prospective medical fees or admission fees prior to providing emergency treatment, and is liable on conviction to a fine not exceeding three million shillings</p> <p>Amend further by inserting the following-</p> <p>“The facility and the kin of the discharged patient and/or the deceased shall agree on the modalities of payment of the outstanding charges</p>	<p>These amendments seek to ensure that the rights of the facility owners are also protected</p>
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**General Comments**

- i. The Commission fully supports the proposed amendments to streamline the process of emergency treatments by facilities in Kenya.
- ii. The proposed amendments ensure dignity and respect for all persons who, may require emergency care and treatment; need to be discharged after recovery, and for the family whose patients die and do not have finances to clear accrued hospital bills
- iii. The Commission, however, notes that there is a similar comprehensive amendment in the National Assembly contained in *The Health (Amendment) Bill No 56 of 2024*. By the time of this memorandum, this amendments had undergone public participation. We requests the sponsor of the Bill to consider the consolidation of the two Bills.





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04 NOV 2025  
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**COUNCIL OF GOVERNORS**

Westlands Delta House 2<sup>nd</sup> Floor, Waiyaki Way.  
P.O. BOX 40401-00100,  
Nairobi.

Tel: (020) 2403314, 2403313  
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Our Ref: COG/6/40 Vol. 110 (22)

29<sup>th</sup> October 2025

Jeremiah Nyegenye, CBS  
Clerk of the Senate  
Main Parliament Buildings  
**NAIROBI**



Dear Clerk,

**SUBMISSIONS ON THE LEGISLATIVE MEMORANDUM ON THE HEALTH (AMENDMENT) BILL, 2025**

The Council of Governors appreciates the existing collaboration with the Senate through the Standing Committee on Health, which is established pursuant to standing order 228 (3) and the Fourth Schedule of the Senate Standing Orders and is mandated to consider all matters relating to medical services, public health and sanitation to study and review all the legislation referred to it.

In view of the above, the Council has reviewed and prepared submissions on the Health (Amendment) Bill, 2025 which seeks to amend the Health Act, 2017 to prohibit the detention of patients and corpses of patients by health facilities.

The purpose of this letter, therefore, is to submit the attached memorandum for your consideration. The Council remains available for further discourse on the subject.

Please accept the assurance of our highest esteem and consideration.

Yours sincerely,

Mary Mwiti, EBS  
Chief Executive Officer

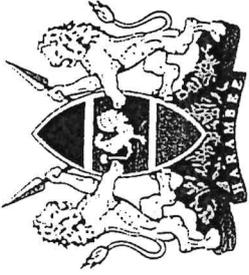
3) Mr. Ringera  
Kindly deal  
Kobach  
04/11/2025

① DSFC

Kindly deal

② ADSECO (K)  
Kindly deal  
04/11/2025





COUNCIL OF GOVERNORS

LEGISLATIVE MEMORANDUM ON THE HEALTH (AMENDMENT) BILL, 2025

To:  
THE SENATE HEALTH COMMITTEE

From:  
THE COUNCIL OF GOVERNORS



**MEMORANDUM ON THE HEALTH (AMENDMENT) BILL, 2025**

The Council of Governors,

In recognition of Article 1(4) of the Constitution of Kenya, that sovereign power of the people is exercised at the National level and the County level;

In further recognition of Article 6 (2) that Governments at the National and County levels are distinct; and

Aware of the need for coordination and consultation between the National Government and County Governments to ensure that legislation responds to the key issues facing devolution, and further reflects the spirit and objects of devolution.

The Council hereby notes as follows on the **HEALTH (AMENDMENT) BILL, 2025 (the Bill)**:

**A. General Comments:**

The Health (Amendment) Bill, 2025 seeks to amend the Health Act, 2017 to prohibit the detention of patients and corpses of patients by health facilities by insertion of a new section (7A) immediately after Section 7 of the Health Act, 2017.

**B. Comments on Specific Provisions:**

New Section	Provision	Comments
Section 7A Non-detention of patients by health facilities	(1) A health facility shall not detain a patient or the corpse of a patient as lien over an outstanding fee incurred in relation to the access of services in the health facility.	Amendment is okay.



	<p>(2) A person in-charge of a health facility which contravenes subsection (1) commits an offence.</p>	<p>Amendment is okay.</p>
<p>(3) The Cabinet Secretary may make regulations for recovery of fees paid to access services in a health facility.</p>		<p>This amendment should be expunged from the Bill because it empowers the Cabinet Secretary to micro-manage County Governments with regards to determination of fees paid to access services in a health facility.</p> <p>Health service delivery is devolved by the Constitution and therefore County Governments should independently determine the fees and charges for medical services by legislation of the County Assembly.</p> <p>Counties should be at liberty to recommend or make regulations for the better carrying out of the objects of the amendment.</p>

C. Recommendations

The Council notes that the proposed subsection (3) of the Bill purports to empower the Cabinet Secretary to micro-manage County Governments with regards to fees paid to access services in a health facility. The distinctness of Counties has been underscored in Article 6 (2) of the Constitution, and therefore this subsection should be expunged from the Bill to conform to the provisions of the Constitution on devolution and particularly as far as the constitution provides for the Health function.



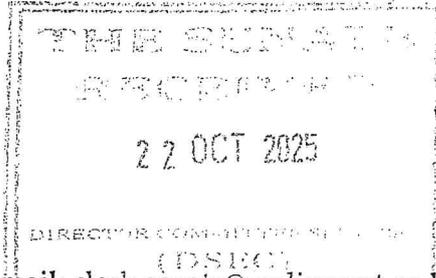


Our REF: 2/SN/2025

Your REF: TBA

Date: 15 October 2025

Clerk of the Senate  
Senate of Kenya  
Main Parliament Buildings  
P.O. Box 41842-00100  
NAIROBI



21 OCT 2025

Advance copy by email: [clerk.senate@parliament.go.ke](mailto:clerk.senate@parliament.go.ke)

Dear Sir,

**RE: The Health (Amendment) Bill, 2025 (Senate Bills No. 12 of 2025)**

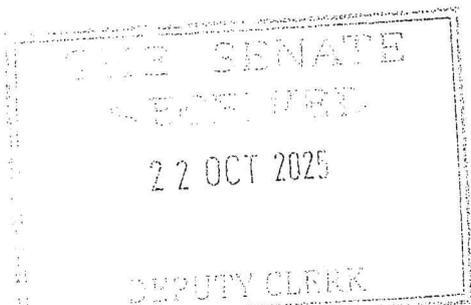
The Kenya Legal & Ethical Issues Network on HIV and AIDS (KELIN) is a human rights non-governmental organisation working to protect and promote health-related human rights in Kenya. KELIN does this by providing legal services and support, training professionals on human rights, engaging in advocacy campaigns that promote awareness of human rights issues, conducting research, and influencing policy that promotes evidence-based change.

We write in response to the invitation for submission of written memoranda to The Health (Amendment) Bill, 2025 (Senate Bills No. 12 of 2025), dated 6 October 2025. Kindly find enclosed our written memorandum. We pray that our comments are considered. We are available for further engagement with the Standing Committee on Health in the Senate on the subject matter.

Signed by:  
  
DB72F5B6DDA2485..

Allan Maleche  
Executive Director

15 OCT 2025  
① DKG DSHC  
Kindly deal  
② Dasse-uk  
Kindly deal  
22/10/25  
Eg 22/10/2025



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+254 (020) 2515790

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@KELINKenya

3) Mr. Ringers  
Kindly deal





**GENERAL COMMENTS:**

- The Preamble of the Bill needs to be made clearer to address the specific objects for legislating against detention for non-payment of hospital bills or medical expenses. This is to avoid misinterpretation of the law beyond the intended scope such as detention under the Public Health Act to prevent the spread of infectious diseases.
- There needs to be a definition of the word detention to ensure that all circumstances foreseen are captured by the Bill.
- The Bill ought to expressly address the consequence of the offence created by prescribing a fine or sentence.
- The Bill should provide clarity on whether it only proposes to criminalise detention arising from emergency health circumstances since the Amendment is made under Section 7 of the Health Act, 2017 which is on emergency treatment. The prohibition for detention ought to apply to all circumstances including and beyond emergency health circumstances. The clarity on the targeted multisectoral engagement by the Cabinet Secretary in setting up the Regulations especially with proprietors of health facilities.

**SPECIFIC COMMENTS PER CLAUSE:**

Section	Clause	Comment
Preamble	Preamble	<ul style="list-style-type: none"> <li>• Suggest a rephrase of the preamble to indicate that the Amendment is for detention for financial reasons.</li> <li>• <i>An Act of Parliament to amend the Health Act to prohibit the detention of patients and corpses of patients by health facilities for financial reasons.</i></li> </ul>
1. Section 2 of the Health Act- Definition	Clause 2(7A)	<ul style="list-style-type: none"> <li>• Suggest adding a definition of the word <i>detention</i> of phrase <i>hospital detention for financial reasons</i> because there is no mention in the section on interpretation, neither is there a working definition in Constitution of Kenya, 2010 or the Health Act, 2017.</li> <li>• <i>Hospital detention for financial reasons means refusing to discharge a patient after medical discharge is clinically indicated, or refusing release of bodies of deceased patients, for reasons of non-payment in part or in full of hospital bills or medical expenses.</i></li> </ul>



# AKELÍN

Stjórnvottun, Háskóla Íslands

2. Section 7 of the Health Act- Offences	Clause 2(7A)	<ul style="list-style-type: none"> <li>• Suggest the prescription of a fine for the offence created.</li> <li>• <i>A person in charge of a health facility which contravenes sub-section 1 commits an offence and is liable upon conviction to a fine not exceeding three million shillings.</i></li> </ul>
3. Section 12 (2)(d) of the Health Act- Duty of Healthcare providers	Clause 2 (12A)	<ul style="list-style-type: none"> <li>• Suggest an additional duty of healthcare providers not to detain a patient or their remains for financial reasons.</li> <li>• <i>All healthcare providers, whether in the public or private sector, shall have the duty — to avoid detention of patients or their remains for financial reasons.</i></li> </ul>
4. Section 14 of the Health Act- Complaints	Clause 2(14A)	<ul style="list-style-type: none"> <li>• Suggest the establishment of a redress mechanism for kin of patients who have been detained or whose remains have been retained by health facilities for financial reasons.</li> </ul>
5. N/A	Clause 3	<ul style="list-style-type: none"> <li>• If the preamble of the Bill is not amended to factor in detention for financial reasons, then suggest a clause with exceptions to detention as expressly authorized by law for the prevention of the spread of contagious diseases under existing law.</li> </ul>



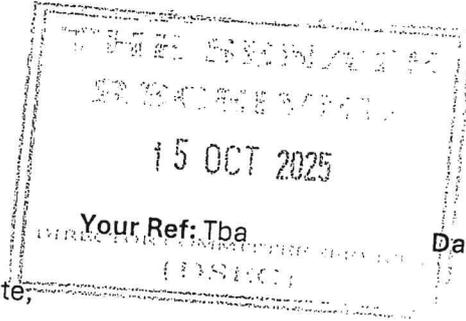
② DSEC (V) kindly deal 15/10/2025

DSEC DLS Note and deal. 14/10/2025



Aga Khan Health Service, Kenya

14 OCT 2025



Date: October 14, 2025

"By hand delivery & Email"

Our Ref: LD/AKHSK/B.01

The Office of the Clerk of the Senate,  
Main Parliament Buildings Nairobi,  
P.O. Box 41842 - 00100,  
**Nairobi**

Email: [clerk.senate@parliament.go.ke](mailto:clerk.senate@parliament.go.ke)  
[healthcommittee.senate@parliament.go.ke](mailto:healthcommittee.senate@parliament.go.ke)

Attention: J.M. Nyengenyne, CBS.

Dear Sir,

Re: Memorandum on the Health Amendment Bill, 2025 [Senate Bill. No. 12 of 2025]

We refer to the above and to the notice for comments that was by the Clerk of the Senate.

**Part 1. Introduction.**

The Aga Khan Health Service, Kenya is a company limited by guarantee [hereinafter referred to as, interchangeably as, "**the Aga Khan Health Service, Kenya,**" or "**the Company,**"] which runs three [3] hospitals in Kenya namely, the Aga Khan University Hospital, Nairobi, the Aga Khan Hospital, Mombasa and the Aga Khan Hospital, Kisumu. One of the core values of the company is to make high caliber health and medical education accessible to all. To achieve the foregoing, in addition to the said three hospitals, the company runs several outreach clinics situated in many parts of the country.

It has been noted by the Company that via the Health Amendment Bill, 2025 [Senate Bill No. 12 of 2025] [hereinafter referred to as, "**the Bill,**"] an amendment has been proposed in the Health Act by way of insertion of section 7A [1], 7A [2] and 7A [3] which will provide as below: -

Section 7A [1] "A health facility shall not detain a patient or the corpse of a patient as lien over an outstanding fee incurred in relation to the access of services in the health facility.

Section 7A [2] A person in-charge of a health facility which contravenes subsection [1] commits an offense.

Section 7A [3] The Cabinet Secretary may make regulations for recovery of fees paid to access services in a health facility."



Nyengenyne  
Kindly deal  
21/10/25



This memorandum is hereby submitted pursuant to **Article 118 [1] [b]** of the Constitution which provides that: -

*“Parliament shall... facilitate public participation and involvement in the legislative and other business of Parliament and its committees.”*

The proposed amendment seeks to give effect to **Articles 28, 29 and 39** of the Constitution which relate to human dignity, freedom and security of persons and freedom of movement. While this welcome, there is no proposed provision that would give effect to **Article 40** of the Constitution regarding protection of the right to property which would inherently also protect health facilities and ensure that they get paid for services rendered as further explained in Part 3, paragraph v(f) of this Memorandum.

The Bill fails to balance the rights of patients vis-à-vis those of health providers. While the rights of patients are explicitly provided for and protected in the Bill, those of health facilities are to be relegated to regulations to be put in place by the Cabinet Secretary in-charge of health.

## **Part 2. Current Situation**

- i. Private health facilities like those under the Aga Khan Health Service, Kenya, shoulder a quiet but heavy responsibility. Every day, they open their doors to patients in need, often long before payment is certain. Unlike public hospitals that rely on government funding, these facilities survive mainly on what patients are able to pay. That income keeps the lights on in operating theatres, salaries flowing for doctors and nurses, medicines stocked on shelves, and equipment functioning for emergencies that cannot wait. When bills go unpaid, the impact is immediate and real, it is not about profit, but about whether a hospital can keep serving the next mother in labour, the next child needing surgery, or the next patient in distress. Sustaining quality care under these conditions is a delicate balance between compassion and survival.
- ii. For services to be provided to patients, contractual engagements are either directly entered or impliedly entered by patients and the private health facilities wherein services will be rendered for a fee.
- iii. Many are the times that patients and or families seek services but fail to make payments as agreed, refuse to consent to transfers to public health facilities or other facilities of their choice. The reality is that there is an increase of incidents wherein patients and or their families refuse to pay bills and or to consent to transfers; and when they are later discharged or die, attempts are made to force facilities to allow them to walk scot-free and or collect the remains of their loved ones without making payments or providing feasible securities or enforceable undertakings.
- iv. The foregoing is exacerbated where the patients involved are foreigners who after seeking access to services from private health facilities often fail to make payments for services rendered and or once they move to the Constitutional and Human Rights Division of the High Court and obtain orders to be discharged and or corpses to be released to the families, they promptly leave the country and their legal representatives file notices to cease from acting for them and or abandon the petitions in courts all together.



- v. This places private health facilities in an extremely difficult position, torn between compassion and sustainability. When families decline to settle bills or honor recommended transfers, hospitals are left bearing substantial, unrecoverable costs. Yet, while they must uphold the dignity of the deceased and the grief of families, they also have a duty to remain operational for the countless other patients who depend on them. The challenge, therefore, is not born of insensitivity, but of a genuine struggle to balance empathy with the responsibility of keeping essential health services running.
- vi. In most instances, for private health facilities to successfully transfer patients who are unable to pay bills to public facilities of their choice, they are forced to file petitions before the Constitutional and Human Rights Division of the High Court. If successful, the said court only issues orders allowing the transfers to be effected and does not award costs leaving a further expense in form of legal fees and court filing fees on the private health facilities.
- vii. Further, many are the instances wherein patients and or families of deceased patients often decline to offer securities or enforceable undertakings to health facilities and or generally enter agreements on modalities of payment of outstanding bills. Instead, they often proceed to file petitions before the Constitutional and Human Rights Division of the High Court alleging that they have been detained and or corpses have been detained by private health facilities. As they employ this tactic, they often either also allege negligence on the part of those private health facilities and or ensure that the petitions are widely publicized in the press [creating reputational damage] and in the social media so as to exert pressure on those facilities to discharge them or release corpses. In such instances, such facilities are again forced to incur legal costs since the Constitutional and Human Rights Division of the High Court would hardly award costs even where patients and or families are finally directed to go back and negotiate with the facilities and agree conditional discharge and or release of corpses.
- viii. Even where private health facilities have filed suits in the relevant courts such as in the Civil Division of the High Court seeking orders for payment of outstanding bills and or orders seeking to allow them to dispose of certain securities such as titles of parcels of land left behind so as to recover costs incurred, more than often, if successful, the judgments remain as paper judgments which cannot be enforced.
- ix. The above goes to show that, there are no effective mechanisms for enforcement of payment outstanding hospital bills. Most private health facilities are often faced with risk of closure due to revenue losses. The Aga Khan Health Service, Kenya has continued to be unable to enforce payment of pending bills due to a myriad of factors.

### Part 3. Recommendations.

- i. The proposed amendment intrudes the freedom of parties [patients and private health facilities] to enter voluntary contractual relationships. The amendments give effect to constitutional provisions namely Articles 28, 29 and 39 of the Constitution that favor patients but fail to include amendments that would also promote the implementation of Article 40 of the Constitution which in the circumstances would speak on behalf of the private health



facilities. To that end the company is minded opposes the amendment.

- ii. There is need to factor in how public health facilities fund their operations and how private health facilities fund their operations. While public health facilities receive subsidies which often act as safety nets, private health facilities do not receive such subsidies. The foregoing coupled with insufficient recovery mechanisms, exposes private health facilities to loss of revenue which will have a spiral effect of creating challenges relating to; inability pay medical professionals' salaries, inability to invest in equipment and infrastructure and inability to maintain quality and specialized services. Considering the foregoing, the amendment should not be allowed and if it is allowed, a section should be included exempting private health facilities from the application of the section 7 A of the Bill.
- iii. The proposed amendment creates a passive incentive to patients and families of such patients to intentionally fail to pay fees [bills] relating to access to services rendered in health facilities. This is because patients and or their families would start refusing to pay fees for access to services while knowing too well that health facilities have very little or no leverage in the circumstances. Health facilities must also be allowed some form of instant leverage. In light of the foregoing, the amendment should not be allowed.
- iv. If the Health Committee of the Senate [hereinafter referred to as, "*the Committee,*"] accepts the proposed amendment, it should also consider balancing the rights of patients as well as those of private health facilities. In doing so, the Committee should expressly provide for the right of private health facilities to transfer patients who are unable or unwilling to meet their financial obligations, and to ensure that mechanisms are in place to facilitate payment or recovery of costs due to such facilities. Such mechanisms may include the establishment of a government-backed medical indigent fund to offset bills for genuinely needy patients, mandatory health insurance coverage or deposit systems for elective admissions, structured payment plans enforceable by law, and clear protocols for referral and cost-sharing between private and public health facilities.
- v. It is proposed that the Committee should also factor the following: That: -
  - a. Under the Kenya National Patients' Rights Charter 2023 at Chapter 1 [4] it is provided as follows: -

*"Every person, patient or client, has a: -the right to choose a health provider.*

*A patient's right to access a health provider of his choice shall not be unduly restricted by third parties so long as the provider of choice is qualified, registered, retained and in current good standing with the regulatory Authority to provide treatment for the particular ailment or illness and as long as that choice is acceptable in medical and ethical standards."*
  - b. Under the Kenya National Patients' Rights Charter 2023 at Chapter 2 [10] it is provided as follows: -

*"Every patient has the following responsibilities: -*

is equally entitled to its right to property and under these circumstances the court is under a duty to balance both rights so as to dispense justice for both parties but at the same time bearing in mind the fact that rights and freedoms under Article 29 and 39 of the Constitution are not absolute and cannot under Article 42 [1] [b] be enjoyed at the expense of the fundamental freedoms of others. Article 24 [1] of the Constitution stipulates as follows: "A right of fundamental freedom in the Bill of Rights shall not be limited except by law and then only to the extent that the limitation is reasonable and justifiable in an open and democratic society based on human dignity, equality and freedom taking into account all relevant factors, including, the need to ensure that enjoyment of rights and fundamental freedoms by any individual does not prejudice the rights and fundamental freedoms of others and ..." In the instant case. The 1<sup>st</sup> petitioner admitted the 2<sup>nd</sup> petitioner to the respondent's hospital with full knowledge that the respondent is a private hospital where he will be required to settle the hospital bills. The respondent performed its part of the bargaining by treating the 2<sup>nd</sup> petitioner until he attained full recovery...while it is true that the relationship was a contractual one for which the respondent should pursue other lawful means of recovering the debt other than detaining their former patient, this court is of the view that it does not augur well for the dispensation of justice for persons to walk into private hospitals for treatment and expect to walk out without paying a single cent under the guise of constitutional protection of liberty and freedom of movement."

- **Karen Hospital v Michael Omusula [Being sued as the next of kin, representative and husband/ spouse of Jakyline Nelma Mutaki [2021] KEHC 622 [KLR].**

In this case the court observed that: -

"In the Instant Petition it has been urged that a patient after emergency is supposed to be referred to a health facility within their financial capacity. This contention has not been controverted. Under **Clause 2.4 of Kenya Health Sector Referral Implementation Condition 2014**, lists lack of financial capacity as a ground for referral of patients, whereas **Clause 3.3** makes it mandatory for a patient or next of kin to give consent for any transfer. In the instant Petition, the patient is incapacitated and cannot give consent save the next of kin herein, the Respondent, her husband. The patient herein has an outstanding Hospital bill of Kshs.23,700,549.00 which the applicant contended the Respondent has avoided to pay nor indicated how he intends to clear the same. This has not been challenged by the Respondent.

The Respondent on his part, claims that the Hospital has not approached him to provide his consent, as the patient herein cannot give her informed consent for being incapacitated. He further claims the hospital has not explained succinctly the reason for intended referral, the choice of the doctor or facility, the expected costs of referral and possible outcome of the referral.

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