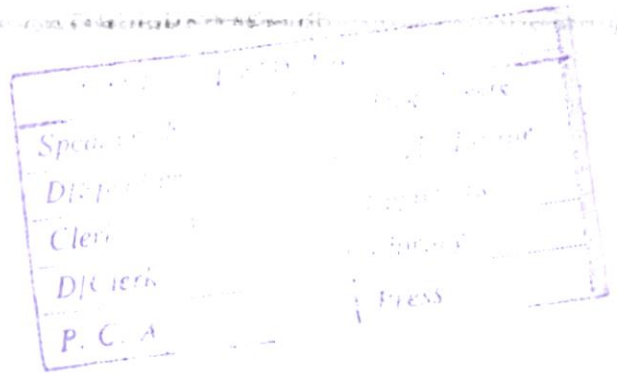


REPUBLIC OF KENYA



KENYA NATIONAL ASSEMBLY

TENTH PARLIAMENT – FOURTH SESSION – 2011

REPORT OF THE DEPARTMENTAL COMMITTEE ON
HEALTH

ON THE NURSES
(AMENDMENT) BILL, 2010

CLERK'S CHAMBERS,
PARLIAMENT BUILDINGS,
NAIROBI

APRIL, 2011

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PREFACE

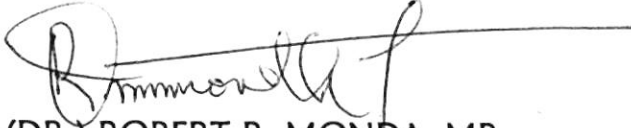
The Departmental Committee on Health was constituted pursuant to provisions of Standing Order No. 198, and mandated to, among other things, investigate, inquire into, and report on all matters relating to the mandate, management, activities, administration, operations and estimates of the assigned Ministries and departments. The Committee is also mandated to *study and review all legislation referred to it and make reports and recommendations to the House as often as possible, including recommendation of proposed legislation*".

The Members of the Committee are:-

- (i) The Hon. (Dr.) Robert Monda, M.P.- Chairman
- (ii) The Hon. Nuh Nassir, MP
- (iii) The Hon. Sheikh Dor, MP
- (iv) The Hon. Cyprian Omolo, M.P
- (v) The Hon. Thomas M. Mwadeghu, MP
- (vi) The Hon. Munyaka Kioko, M.P.
- (vii) The Hon. (Dr.) Eseli Simiyu, MP
- (viii) The Hon. Joseph Oyugi Magwanga, M.P
- (ix) The Hon. Fredrick Outa, M.P
- (x) The Hon. Joseph Lekuton, M.P

The Nurses (Amendment) Bill, 2011 is a public bill, moved by the Member for Naivasha, (Hon. John Muthutho). It was Read a First Time on March 31st, 2011 and committed to the Committee on Health. Debate on Second Reading commenced on Tuesday 12th, 2011 and concluded on April 14, 2011, paving way for Committee of the whole House.

This Report contains the amendments proposed by the various stakeholders, in agreement with the Mover of the Bill and the Committee. It is my pleasure to present and commend the Report to the House.

A handwritten signature in black ink, appearing to read "R. Monda", written over a horizontal line.

HON. (DR.) ROBERT R. MONDA, MP

CHAIRPERSON, DEPARTMENTAL COMMITTEE ON HEALTH

Date April 19, 2011

PART I:

CONSIDERATION OF THE NURSES (AMMENDMENT) BILL 2010

1. The Nurses (Amendment) Bill, 2011 is a public bill, moved by the Member for Naivasha, (Hon. John Muthutho). It was *Read a First Time* on March 31st, 2011 and committed to the Committee on Health. Debate on *Second Reading* commenced on Tuesday 12th, 2011 and may be on April 14, 2011, paving way for *Committee of the whole House*.

MEETING WITH STAKEHOLDERS

2. The Committee considered the Bill on April 14, 2011 in a meeting attended by the Member for Naivasha (Hon. Mututho, MP) and representatives of-
 - (i) Ministry of Medical Services
 - (ii) Ministry of Public Health
 - (iii) Commission for Higher Education
 - (iv) Kenya Medical Training College
 - (v) The University of Nairobi
 - (vi) Masinde Muliro University of Science and Technology
 - (vii) National Nurses Association of Kenya
 - (viii) Kenya Progressive Nurses Association
 - (ix) Nursing Council of Kenya
3. It is worth noting that, even though invited, Moi University and Kenyatta University did not send representatives to the meeting.

4. The Mover of the Bill took the meeting through the Objectives of the Bill, as laid out in the “Memorandum of Objective and Reasons”. The Mover explained that the principle of the Bill is to amend the Nurses Act (Cap 257) so to make it conform to emerging trends in the practice of nursing in present day Kenya. The new challenges posed by modern day practice call for a strengthened supervisory regime over the practice of registered persons and as well as a Council well empowered live up to its statutory role.
5. Thereafter, the Committee consider the Bill in accordance with the procedure on consideration of a Bill provided in Standing Order No.115, as follows-

CLAUSE 2:

(i) Amendments proposed:

THAT, Clause 2 be amended by inserting a new subsection 4(1)(f), as follows-

The following persons appointed by the Minister from the community-

(a) One person with economic or financial professional background;

(b) One person with human resource management professional background.

In moving the amendment, the Ministry explained that it was important to include a member of the public outside the mainly predominant group of nurses, so as to have persons who will advise on economic/financial matters and also enrich the profession with human resource expertise and other issues that fall on the nursing profession. They also added that it would be prudent for the Nursing Council to have an “outside” view and enrich the expertise and knowledge of their membership.

The National Nurses Association of Kenya (NNAK) was opposed to the proposed amendments, expressing that the powers of the Minister to appoint the two persons may be prone to abuse. After lengthy deliberations

it was felt that, while the explanation to the second part of the proposed amendment was justifiable and reasonable, there Council need not have expertise in economic or financial matters within its membership, since they were free to engage personnel to offer such services. In this regard, the **first part** of the proposed amendment was **dropped**.

The **second part** of the amendment relating to insertion of provision to allow the Minister to nominate a person with human resource management skills was **agreed to**:

(ii) **Further Amendments proposed:**

THAT, Clause 2 be further amended by inserting a new subsection as follows-

(f) The Chief Executive Officer, Kenya Medical Training College or his representative,

In explaining the proposed amendment; the KMTTC's Legal officer said that KMTTC being the leading public trainer of nurses in Kenya was properly interested to participate in the Council which regulates training, registration, enrolment and licensing of nurses.

The amendment was **agreed to**;

(iii) **Further Amendments proposed:**

THAT, Clause 2 be further amended by deleting the word "**psychiatric**" appearing in paragraph e(iii) of sub clause (1) and substituting therefore the word "**mental**".

The Council argued that the appropriate word was "mental" as opposed to "psychiatric" since the training offered is on mental health and not psychiatric health.

The amendment was **agreed to**;

(iv) **Further Amendments proposed**

The representatives of the Universities also sought to have universities represented in the Council and sought that the subsection (vii) of Clause (2)

be amended to include the word "public educator" be replaced by "public universities representative".

After brief deliberations, the amendment was agreed to, notwithstanding the need to reduce the members of the Council. It was also felt that the representation by the Director, KMTC representing trainers would not suffice.

Clause 2: agreed to, with amendments

CLAUSE 3

Agreed to, without amendment;

CLAUSE 4

Amendment proposed:

THAT, Clause 4 be amended by deleting the word "**twelve**" substituting therefore the word "**fourteen**".

The Council explained that the word "twelve" was a typo that should have been replaced by the word "fourteen" since the quorum of the Council is normally twelve, and that the Act ought to have been amended to read so. The Meeting was however informed that the proposed amendment was superfluous since the anomaly in the principal Act had been corrected through a miscellaneous amendment Act. The Legal Council was asked to confirm the claim and retain the proposed amendment, if the claim was found to be inaccurate.

Clause 3: agreed to, subject to clarification on the above-mentioned matter.

CLAUSE 5

Amendment proposed:

THAT, Clause 5 be amended by inserting the word “**standards,**” immediately after the word “*discipline*” appearing in paragraph (d) of the proposed subsection (1).

The Council explained that it would be prudent for the committees of the Council to be expanded to include “standards” since the issue was paramount in setting values for the profession.

The amendment was agreed to;

Clause 5: agreed to, with amendments

CLAUSE 6

(i) Amendment proposed:

THAT, Clause 6 of the Bill be amended by deleting the word “am” appearing in paragraph (c) of the proposed subsection (2) and substituting therefor the word “an”.

The meeting noted that the use of the word “am” in place of the word “an” was a typo. The amendment was agreed to;

(ii) Further Amendments proposed:

Participants further expressed that, section 17(2)(c), under Clause 6 of the Bill seems to provide for lower qualification for nurses trained outside Kenya. It was explained that, while the text may not have captured the intention, the section targeted the licensing of those persons trained outside Kenya, but who the Council does not examine. The part should not prejudice the qualification threshold required in Kenya. **In this regard, it was agreed that the drafters examine the proposed text and ensure that the intention is captured- an appropriate amendment may be proposed.**

(iii) Further Amendments proposed:

THAT, Clause 6 be amended in the proposed Clause 17 1(b) by deleting the word “**registered**” and replacing in place thereof with the word “licensed”.

The meeting debated the proposal with various participants advancing

- (i) that the proposal would not address the intention of incorporating all categories of nurses; and,
- (ii) that, even though the sub-clause as proposed intends to incorporate all Kenyan nurses to engage in private practise, in the words “registered as a nurse”, the use of the said words is prone to misinterpretation, since there is a category of nurses known as “registered nurse”

It was **agreed** that the drafters proposes an appropriate amendment to the effect that the two categories of nurses, that is, “Enrolled Nurses and Registered Nurses” are included under proposed 17(1)(b), for purposes of private practise.

(iv) **Further Amendments proposed:**

THAT, Clause 6 be amended in the proposed Clause 17 2(b)(i) adding the words “ **except a public university**”

The University representative explained that the intention of the proposal is to endure that those who teach nursing in universities also have opportunity to practise so that they can have practicable knowledge in their field and impart better skills to nursing students. The meeting discussed the intention of the amendment at length. While part of the participants felt that it may offend Article 77 of the Constitution on restriction on activities of State officers and the Ministry of Medical Services was of the view that public officers in receipt of a salary should not be allowed to engage in other gainful practise or employment, the Council and the Universities were opined that allowing trainers and trainers of trainers to practise would enhance the quality of trainees. The Committee observed that allowing the practise may also have adverse effects by way of increased absenteeism by nurses in public facilities.

The legal officer from KMTC also guided that inserting the proviso clause at the place proposed may have the opposite effect, that those in public universities will not be **deemed** engage in private practise as a nurse.

After much deliberation the Committee observed that the issues of part-time and exceptions for private practicing cannot be addressed by way of amending Cap 257. **It was directed that an appropriate amendment be proposed to allow the Minister to make regulations on part-time and/or private practise, in consultation with the Council, from time to time.**

The debate and resolution on this proposal also disposed of the proposal (following immediately hereunder) and made by the representatives from Masinde Muliro University, on related matters.

(v) **Further Amendments proposed:**

THAT, the bill be amended such that-

(a) a person be deemed to engage in part-time private practise as a nurse is such person practises on his own account after normal working hours and is entitled to receive, for his own financial benefit, the entire amount of all fees and charges; or practises after normal working hours in partnership with others and is entitled to receive, for his own financial benefit, as charges.

(b) Definition of a part-time private practise has part-time private practise after normal working hours”

Clause 6: agreed to, with amendments

CLAUSE 7

Amendment proposed:

THAT, Clause 7 be amended by inserting the word “**or enrolled,**” immediately after the word “registered” whenever it occurs in the proposed section 18A-

The Council explained that the intention of the proposed amendment was to include all categories of nurses in the Part on Disciplinary Provisions. The proposal was **agreed to**, but modified so that it will include “**registered nurses, enrolled nurses and licensed nurses**”. The drafters were asked to propose an appropriate amendment.

Clause 7: agreed to, with amendments

CLAUSES 8, 10, 11 & 12

Amendments proposed:

THAT, Clauses 7, be amended in the appropriate parts to reduce the proposed fine to “shillings three hundred thousand” from “*shillings five hundred thousand*”. The Council, NNAK and the University of Nairobi explained that the proposed fine of Ksh.500,000 may be unfair and unreasonable since the part related to persons already licensed to practise.

The amendment was agreed to;

CLAUSES 8, 9, 10, 11, 12, 13, 14 and 15:

Clauses 8, 9, 10, 11, 12, 13, 14 and 15: Agreed to, without amendment

NEW CLAUSE

THAT, the Principal Act (Cap 257) be amended-

- (i) in Clause 9(1)(i) by inserting the add the words “*nursing commodities*” after the word “staff” and before the word “facilities”.
- (ii) in Clause 17 by addition of a new subsection immediately after subsection 17(2) to be a new subsection 17(3) to read as follows-

“A license issued under subsection 17(2) (c) to a person who is not a citizen of Kenya shall:

(a) Be for such period, and for such purpose, as the Council may in each particular case prescribe.

(b) On expiry a license may be renewed for such period, not exceeding one year, as the Council may in each particular case prescribe.

(c) Where a license is renewed, details of the renewal shall be entered in the appropriate record.

(d) Where a license expires and is not renewed within 30 days of expiry the name of the holder of the license shall be removed

from the appropriate record, and the Council may decline further requests or impose a levy on such requests.

Members sought the effect of the above clause and expressed concern that it may bar fellow East Africans from practising in Kenya. After brief explanation on the merits of the new Clauses, the amendments were **agreed to;**

New Clause: Agreed to;

SCHEDULE

Agreed to, without amendment

CLAUSES 1

Agreed to, without amendment

TITLE

Agreed to, without amendment

The Chairpersons thanked all stakeholders present for their contributions and proposed amendments. It was agreed that-

- (i) the Committee would meet on Tuesday, April 18, 2011 at 10.00 am to adopt the report on the amendments, in presence of the parliamentary drafter. The amendment would be moved by the Chairperson at the Committee of whole House;
- (ii) on conclusion of the Second Reading, the Mover of the bill (Hon. J. Mututho) would not have the Bill proceed to Committee of whole House until after Wednesday afternoon (April 19, 2011); and.
- (iii) after adoption of the report, the proposed amendments be presented to the House and forwarded to all stakeholders present, through the email addresses provided.

PART II:

SUMMARY OF PROPOSED AMENDMENTS

THE NURSES (AMENDMENT) BILL, 2010

COMMITTEE STAGE AMENDMENTS

NOTICE is given that the Member for Nyaribari Chache and Chairman of the Departmental Committee on Health (Hon. (Dr.) Robert Monda, MP,) intends to move the following amendments to the Nurses (Amendment) Bill, 2010, at the Committee Stage-

Clause 2

THAT Clause 2 of the Bill be amended in subsection (1) of the proposed section 4 –

(a) by deleting the word “*psychiatric*” appearing in subparagraph (iii) of paragraph (e) and substituting therefor the word “*mental*” ;

(b) by inserting the following new words at the end of subparagraph (vii) of paragraph (e)-

“nominated by recognized universities in Kenya” ;

(c) by inserting the following new subparagraph immediately after subparagraph (viii) of paragraph (e)-

(ix) one person with a professional background in human resource management ;

(d) by inserting the following new paragraph immediately after paragraph (e)-

(f) the chief executive officer of the Kenya Medical Training College or his or her representative.

Clause 5

THAT Clause 5 of the Bill be amended in paragraph (d) of the proposed subsection (1) by inserting the word "**standards**" immediately after the word "**discipline**";

Clause 6

THAT Clause 6 of the Bill be amended-

(a) by deleting paragraph (b) of the proposed section 17 (1) and substituting therefor the following new paragraph-

(b) is registered, enrolled or licensed as a nurse under this Act;

(b) by inserting the following new subsection immediately after subsection (2) of the proposed section 17-

(3) A license issued under section 17(2) (c) to a person who is not a citizen of Kenya -

(a) shall be for such period, and for such purposes, as the Council may in each particular case prescribe;

(b) may, on expiry, be renewed for such period, not exceeding one year, as the Council may in each particular case prescribe;

(c) where a license is renewed, details of the renewal shall be entered in the appropriate record;

(d) where a license expires and is not renewed within thirty days of expiry the name of the holder of the license shall be removed from the appropriate record, and the Council may decline further requests or impose a levy on such requests;

(c) by deleting the words "**five hundred thousand shillings**" appearing in paragraph (a) of subsection (8) of the proposed section 17 and substituting therefor the words "**three hundred thousand shillings**"

Clause 7

THAT Clause 7 of the Bill be amended by inserting the following new subsection in the proposed section 18A.

(2) For the avoidance of doubt, this section applies in equal respects to all categories of nurses whether registered, enrolled or licensed as such under this Act.

NEW CLAUSE

THAT the Bill be amended by inserting the following new Clause immediately after Clause 4-

4A. Section 9 of the principal Act is amended in subsection (1) (i) by inserting the words "nursing commodities" immediately after the words "qualified staff".



20/04/2011

Hon. (Dr) Robert Monda, MP.

PART III:

MINUTES OF THE SEVENTY SECOND SITTING OF THE DEPARTMENTAL COMMITTEE ON HEALTH HELD IN COMMITTEE ROOM, 2ND FLOOR, CONTINENTAL HOUSE , PARLIAMENT BUILDINGS ON THURSDAY APRIL 14TH, 2011, AT 10.15 A.M

PRESENT.

Hon (Dr) Robert Monda, M.P - Chairperson
Hon. Nuh Nassir, M.P - Vice - Chairperson
Hon. Fredrick Outa, M.P
Hon. Joseph O. Magwanga, M.P
Hon. (Dr) David Eseli, M.P
Hon. Cyprian Omolo, M.P
Hon. Munyaka Kioko, M.P

ABSENT.

Hon. Thomas M. Mwadeghu, M.P
Hon. Joseph Lekuton, M.P
Hon. Sheikh Mohamed Dor, M.P

IN ATTENDANCE

OTHER MEMBERS OF PARLIAMENT

Hon. John Mututho, M.P

NATIONAL ASSEMBLY

Samuel Njoroge	-	Clerk Assistant
Ahmad Kadhi	-	Third Clerk Assistant
Denis Abisai	-	Legal Counsel
Linda Kiriinya	-	Parliamentary Intern

MINISTRY OF MEDICAL SERVICES

Adan A. Adan	-	Deputy Secretary – Administration
Chris Rakuom	-	Chief Nursing Officer
Henry Wanyonyi	-	Medical Services

MINISTRY OF PUBLIC HEALTH AND SANITATION

Mary Nandili	-	Senior Nursing Officer
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KENYA MEDICAL TRAINING COLLEGE

John O. Anyiri - Deputy Registrar
Caroline Musango - Legal Officer

NURSING COUNCIL OF KENYA

Fredrick Osundwa - Chairman, Nursing Council of Kenya
Elizabeth Oywer - Registrar

UNIVERSITY OF NAIROBI

Dr. Grace Omoni - Director, School of Nursing
Antony Ayieko - Lecturer, School of Nursing

MASINDE MULIRO UNIVERSITY

John Aruido - Lecturer, School of Nursing

NATIONAL NURSING ASSOCIATION

Luke S. Kondambo - National Chairperson

KENYA PROGRESSIVE NURSES ASSOCIATION

Thaddeus Mayaka - Chairperson

PRELIMINARIES

The Meeting was called to order and Prayers said; The Chairperson welcomed those present and informed them of the agenda before the Committee. He informed then that-

1. The Nurses (Amendment) Bill, 2011 is a public bill, moved by the Member for Naivasha, (Hon. John Muthutho). It was *Read a First Time* on March 31st, 2011 and committed to the Committee on Health; and,
2. Debate on *Second Reading* commenced on Tuesday 12th, 2011 and may be concluded today (April 14, 2011), paving way for *Committee of the whole House*, the following week. He added that all amendments would be considered during this stage;
3. Out of the ten organizations invited, Kenyatta University and Moi University were not represented in the meeting. He thanked those present for submitting written memoranda on the Bill and attending.

On procedure, the Chairperson informed the meeting that they will proceed as follows-

- (i) Firstly, the Mover of the Bill (or a Committee member, in absence of the mover) will take the Meeting through the Objectives of the Bill, as laid out in the "Memorandum of Objective and Reasons";
- (ii) Secondly, the procedure on consideration of a Bill provided in Standing Order No.115, will follow;
- (iii) Thirdly, in every Clause, priority would be given to those who had submitted written memoranda to move their proposed amendments; other proposals would then follow.

MIN NO.223/ 2011 : CONSIDERATION OF THE NURSES (AMMENDMENT) BILL 2010

Thereupon, the Mover of the Bill and Member for Naivasha (Hon. John Mututho) took the meeting through the Objectives and Reasons of the Bill.

The Meeting considered the Bill as follows-

CLAUSE 2:

Question for Clause 2 proposed;

Amendments proposed: (by the Ministry of Medical Services)

THAT, Clause 2 be amended by inserting a new subsection 4(1)(f), as follows-

The following persons appointed by the Minister from the community-

(c) One person with economic or financial professional background;

(d) One person with human resource management professional background.

In moving the amendment, the Ministry explained that it was important to include a member of the public outside the mainly predominant group of nurses, so as to have persons who will advise on economic/financial matters and also enrich the profession with human resource expertise and other

issues that fall on the nursing profession. They also added that it would be prudent for the Nursing Council to have an “outside” view and enrich the expertise and knowledge of their membership.

The National Nurses Association of Kenya (NNAK) was opposed to the proposed amendments, expressing that the powers of the Minister to appoint the two persons may be prone to abuse. After lengthy deliberations it was felt that, while the explanation to the second part of the proposed amendment was justifiable and reasonable, there Council need not have expertise in economic or financial matters within its membership, since they were free to engage personnel to offer such services. In this regard, the **first part** of the proposed amendment was **dropped**.

The **second part** of the amendment relating to insertion of provision to allow the Minister to nominate a person with human resource management skills was **agreed to**:

Further Amendments proposed: (by the Kenya Medical Training College)

THAT, Clause 2 be further amended by inserting a new subsection as follows-

(f) The Chief Executive Officer, Kenya Medical Training College or his representative,

In explaining the proposed amendment; the KMTC’s Legal officer said that KMTC being the leading public trainer of nurses in Kenya was properly interested to participate in the Council which regulates training, registration, enrolment and licensing of nurses.

The amendment was **agreed to**;

Further Amendments proposed: (by the Nursing Council of Kenya)

THAT, Clause 2 be further amended by deleting the word “**psychiatric**” appearing in paragraph e(iii) of sub clause (1) and substituting therefore the word “**mental**”.

The Council argued that the appropriate word was “mental” as opposed to “psychiatric” since the training offered is on mental health and not psychiatric health.

The amendment was agreed to,

Further Amendments proposed

The representatives of the Universities also sought to have universities represented in the Council and sought that the subsection (vii) of Clause (2) be amended to include the word “nurse educator” be replaced by “public universities representative”.

After brief deliberations, the amendment was dropped. With a view to reducing the members of the Council it was felt that the representation by the Director, KMTC would suffice.

CLAUSE 3

Agreed to, without amendment;

CLAUSE 4

Amendments proposed: (by the Nursing Council of Kenya)

THAT, Clause 4 be amended by deleting the word “**twelve**” substituting therefore the word “**fourteen**”.

The Council explained that the word “twelve” was a typo that should have been replaced by the word “fourteen” since the quorum of the Council is normally twelve, and that the Act ought to have been amended to read so. The Meeting was however informed that the proposed amendment was superfluous since the anomaly in the principal Act had been corrected through a miscellaneous amendment Act. The Legal Council was asked to confirm the claim and retain the proposed amendment, if the claim was found to be inaccurate.

CLAUSE 5

Amendment proposed: (by the Nursing Council of Kenya)

THAT, Clause 5 be amended by inserting the word “**standards,**” immediately after the word “*discipline*” appearing in paragraph (d) of the proposed subsection (1).

The Council explained that it would be prudent for the committees of the Council to be expanded to include “standards” since the issue was paramount in setting values for the profession.

The amendment was **agreed to**;

CLAUSE 6

Amendment proposed: (by the Nursing Council of Kenya)

THAT, Clause 6 of the Bill be amended by deleting the word “am” appearing in paragraph (c) of the proposed subsection (2) and substituting therefor the word “an”.

The meeting noted that the use of the word “am” in place of the word “an” was a typo. The amendment was **agreed to**;

Further Amendments proposed: (by university of Nairobi)

Participants further expressed that, section 17(2)(c), under Clause 6 of the Bill seems to provide for lower qualification for nurses trained outside Kenya. It was explained that, while the text may not have captured the intention, the section targeted the licensing of those persons trained outside Kenya, but who the Council does not examine. The part should not prejudice the qualification threshold required in Kenya. **In this regard, it was agreed that the drafters examine the proposed text and ensure that the intention is captured- an appropriate amendment may be proposed.**

Further Amendments proposed: (by the National Nurses Association of Kenya)

THAT, Clause 6 be amended in the proposed Clause 17 1(b) by deleting the word “**registered**” and replacing in place thereof with the word “**licensed**”.

The meeting debated the proposal with various participants advancing-

(iii) that the proposal would not address the intention of incorporating all categories of nurses; and,

(iv) that, even though the sub-clause as proposed intends to incorporate all Kenyan nurses to engage in private practise, in the words “registered as a nurse”, the use of the said words is prone to misinterpretation, since there is a category of nurses known as “registered nurse”

It was **agreed** that the drafters proposes an appropriate amendment to the effect that the two categories of nurses, that is, “Enrolled Nurses and Registered Nurses” are included under proposed 17(1)(b), for purposes of private practise.

Further Amendments proposed: (by the University of Nairobi)

THAT, Clause 6 be amended in the proposed Clause 17 2(b)(i) adding the words “ **except a public university**”

The University representative explained that the intention of the proposal is to endure that those who teach nursing in universities also have opportunity to practise so that they can have practicable knowledge in their field and impart better skills to nursing students. The meeting discussed the intention of the amendment at length. While part of the participants felt that it may offend Article 77 of the Constitution on restriction on activities of State officers and the Ministry of Medical Services was of the view that public officers in receipt of a salary should not be allowed to engage in other gainful practise or employment, the Council and the Universities were opined that allowing trainers and trainers of trainers to practise would enhance the quality of trainees. The Committee observed that allowing the practise may also have adverse effects by way of increased absenteeism by nurses in public facilities.

The legal officer from KMTC also guided that inserting the proviso clause at the place proposed may have the opposite effect, that those in public universities will not be **deemed** engage in private practise as a nurse.

After much deliberation the Committee observed that the issues of part-time and exceptions for private practicing cannot be addressed by way of

amending Cap 257. It was directed that an appropriate amendment be proposed to allow the Minister to make regulations on part-time and/or private practise, in consultation with the Council, from time to time.

The debate and resolution on this proposal also disposed of the proposal (following immediately hereunder) and made by the representatives from Masinde Muliro University, on related matters.

Further Amendments proposed: (by the Masinde Muliro University)

THAT, the bill be amended such that-

- (c) a person be deemed to engage in part-time private practise as a nurse is such person practises on his own account after normal working hours and is entitled to receive, for his own financial benefit, the entire amount of all fees and charges; or practises after normal working hours in partnership with others and is entitled to receive, for his own financial benefit, as charges.
- (d) Definition of a part-time private practise has part-time private practise after normal working hours”

CLAUSE 7

Amendment proposed: (by the Nursing Council of Kenya)

THAT, Clause 7 be amended by inserting the word “**or enrolled,**” immediately after the word “registered” whenever it occurs in the proposed section 18A-

The Council explained that the intention of the proposed amendment was to include all categories of nurses in the Part on Disciplinary Provisions. The proposal was **agreed to**, but modified so that it will include “**registered nurses, enrolled nurses and licensed nurses**”. The drafters were asked to propose an appropriate amendment.

Further Amendments proposed: (by the University of Nairobi)

THAT, Clauses 7, be amended in the appropriate parts to reduce the proposed fine to “**shillings three hundred thousand**” from “*shillings five hundred thousand*”. The Council, NNAK and the University of Nairobi

~~explained that the proposed fine of Ksh.500,000 may be unfair and~~
unreasonable since the part related to persons already licensed to practise.

The amendment was **agreed to;**

CLAUSES 8, 9, 10, 11, 12, 13, 14 and 15:

Clauses 8, 9, 10, 11, 12, 13, 14 and 15 Agreed to, without amendment

Agreed to, without amendment

NEW CLAUSES - (by the Ministry of Medical Services)

THAT, the Principal Act (Cap 257) be amended-

- (iii) in Clause 9(1)(i) by inserting the add the words "*nursing commodities*" after the word "staff" and before the word "facilities".
- (iv) in Clause 17 by addition of a new subsection immediately after subsection 17(2) to be a new subsection 17(3) to read as follows-

"A license issued under subsection 17(2) (c) to a person who is not a citizen of Kenya shall:

(e) Be for such period, and for such purpose, as the Council may in each particular case prescribe.

(f) On expiry a license may be renewed for such period, not exceeding one year, as the Council may in each particular case prescribe.

(g) Where a license is renewed, details of the renewal shall be entered in the appropriate record.

(h) Where a license expires and is not renewed within 30 days of expiry the name of the holder of the license shall be removed from the appropriate record, and the Council may decline further requests or impose a levy on such requests.

Members sought the effect of the above clause and expressed concern that it may bar fellow East Africans from practising in Kenya. After brief explanation on the merits of the new Clauses, the amendments were **agreed to;**

It was also agreed that appropriate. As regards Part (III) A of the Bill covering Disciplinary Provisions, The various stakeholders present shared their views with the Committee with some of the view that the amounts for the penalty of professional negligence “not exceeding five hundred thousand shillings” was too exorbitant. After deliberation with the Committee it was agreed by consensus with stakeholders that the maximum fine be capped at Kenya Shillings three hundred thousand.

SCHEDULE

Agreed to, without amendment

CLAUSES 1

Agreed to, without amendment

TITLE

Agreed to, without amendment

MIN.224 / 2011: CLOSURE AND WAY FORWARD

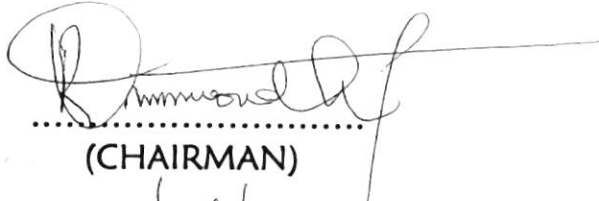
The Chairpersons thanked all stakeholders present for their contributions and proposed amendments. It was agreed that-

- (iv) the Committee would meet on Tuesday, April 18, 2011 at 10.00 am to adopt the report on the amendments, in presence of the parliamentary drafter. The amendment would be moved by the Chairperson at the Committee of whole House;
- (v) on conclusion of the Second Reading, the Mover of the bill (Hon. J. Mututho) would not have the Bill proceed to Committee of whole House until after Wednesday afternoon (April 19, 2011); and.
- (vi) after adoption of the report, the proposed amendments be forwarded to all stakeholders present, through the email addresses provided.

MIN.225 / 2011 ADJOURNMENT

The meeting was adjourned at thirteen minutes past two o'clock to Tuesday 18th April at 10 am.

Signed:


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(CHAIRMAN)

Date:

20/04/2011
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