

NATIONAL ASSEMBLY

OFFICIAL REPORT

Wednesday, 24th October 2018

The House met at 2.30 p.m.

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

PRAYERS

PETITIONS

Hon. Speaker: Member for Kibwezi West.

HUMAN-WILDLIFE CONFLICT IN KIBWEZI WEST

Hon. (Dr.) Patrick Musimba (Kibwezi West, Independent): Thank you, Hon. Speaker. I want to read a Petition regarding human-wildlife conflict in Kibwezi West.

I, the undersigned, on behalf of the residents of Kibwezi West Constituency, draw the attention of the House to the following:

THAT, the Fourth Schedule of the Constitution assigns the responsibility of protection of the environment and natural resources to the national Government;

THAT, in the recent past, residents of Kikumbulyu North, Nguumo and Makindu wards of Kibwezi West Constituency have experienced an increase in cases of human-wildlife conflict leading to loss of human lives, livestock and destruction of crops and property;

THAT, the numerous cases of human-wildlife conflict have been reported to the relevant authorities for purposes of compensation and the victims are yet to be compensated;

THAT, the Chyulu Hills National Park shares an unfenced border with Nguumo and Makindu wards and animals often stray into human settlements, including schools located within wards such as Kari-Mwailu and Kanani primary schools among others;

THAT, further, the ward borders River Athi from Kiaoni, Ithumula and Kanyungu villages which are frequently invaded by hippos, elephants and crocodiles;

THAT, learning in several schools within those villages has since been paralysed at times due to invasion by the said hippos, elephants and crocodiles;

THAT, the residents have sought to meet with the management of Chyulu Hills National Park to reach an amicable solution but have never been successful;

THAT, the issues in respect of which this Petition is made are not pending before any court of law, constitutional or statutory body.

Therefore, your humble petitioners pray that the National Assembly, through the Departmental Committee on Environment and Natural Resources, deliberates on the matters raised in the Petition and resolves to—

- (a) Recommend that the Kenya Wildlife Service installs an electric fence covering 60 kilometres and 30 kilometres from the stretch of the park boundary, that is, from

Wikiamba B via Maangi Uvungu to Ole Kilunyet and from Kiaoni Village via Ithumula village to Kanyungu village in Kibwezi West Constituency, respectively;

- (b) Recommend that the Tourism Fund allocates funds for the electric fences as set out in their objectives of providing protection services;
- (c) Urge the Government to cause expeditious compensation of victims and affected families for loss of lives and destruction of property and concurrently run preventive campaigns to sensitise the community on how to mitigate the attacks;
- (d) Recommend that the KWS organises translocation of crocodiles to safer waters and construction of crocodiles' exclusion enclosures for use by the community when drawing water from the river;
- (e) Recommend that the KWS increases the number of posts/camps in the area for efficient surveillance and quick response to distress calls whenever animals stray into human settlements; and,
- (f) Make any other order or direction that it deems fit in the circumstances of the matters raised.

And your Petitioners will ever pray. I thank you, Hon. Speaker. I have a second one.

Hon. Speaker: You have two?

Hon. (Dr.) Patrick Musimba (Kibwezi West, Independent): Yes, please.

Hon. Speaker: Proceed.

Hon. (Dr.) Patrick Musimba (Kibwezi West, Independent): Thank you. I will jump the preamble because, again, it is about elephants. So I will just move to the recommendations for purposes of the House's time.

Therefore, your humble petitioners pray that the National Assembly, through the Departmental Committee on Environment and Natural Resources, deliberates on the matters raised in the Petition and resolves to—

- (a) Recommend that the KWS erects fences across rivers on the park's boundaries;
- (b) Recommend that the Trust Fund elects electric fences to combat stray wildlife; and,
- (c) Make any other directions that it deems fit in the circumstances of the matter presented in the Petition.

And your Petitioners will ever pray.

I thank you, Hon. Speaker.

Hon. Speaker: I see a few Members who desire to make comments and clarifications, one of whom is the Member for Ugunja.

Hon. Opiyo Wandayi (Ugunja, ODM): Thank you, Hon. Speaker. This Petition by Hon. Musimba is important. I remember in the last Parliament we did work on the Wildlife Act. That Act provides for an elaborate mechanism of compensating people who have suffered attacks from wild animals. What is perhaps lacking is the mechanism to implement that Act fully so that compensation is done swiftly and appropriately.

The issue of wild animals attacking people is not just confined to Ukambani as it were; it is all over. In fact, on the shores of Lake Victoria, it is a big problem. Our people are being killed every day by rhinos, crocodiles, hippos and snakes. Therefore, the Committee chaired by my friend, Hon. Kareke Mbiuki, needs to seize this matter and deal with it expeditiously.

Thank you.

Hon. Speaker: Member for Mandera East.

Hon. Omar Mohamed (Mandera East, EFP): Thank you, Hon. Speaker. I support this Petition. The wildlife-human conflict is real. I have personally lost five camels to elephants and Kenya Wildlife Service (KWS) must take responsibility for the loss of livestock, farmlands and human life. They must fence the restricted areas, the reserves and the game parks. What is surprising is that Tsavo East and Tsavo West have taken the biggest chunk of land in that area and it is unfenced, thereby causing wild animals to stray into private homesteads and property.

I support. Thank you.

Hon. Speaker: Member for Makueni.

Hon. Daniel Maanzo (Makueni, WDM-K): Thank you, Hon. Speaker for giving me an opportunity to comment on this very important Petition. I will limit myself to the case of snakes in the northern and eastern part of Kenya. Statistics show that about 250 Kenyans die of snake bites every year and most of them are children. What could work better is the idea of prevention. Instead of KWS making reparations for victims of snake bites who have passed on - it is very expensive - it would be better if they sensitised communities as has been prayed in this Petition. That way, people will become aware of what to do. They could also be supplied with drugs or mechanisms put in place to ensure that victims of snake bites get timely first aid upon being bitten by a snake.

Hon. Speaker, this week, I received a call at night from a lady from a place called Kisayani. She told me that her son who is nine years old had been bitten by a snake and she needed some help. I sent the help but later on in the morning she said that the son had died. If there were preventive measures and campaigns in place, we would not have such deaths and huge sums of money would also be saved. Every allocation which goes to KWS need not end up into compensation of people. So, I stress on the preventive measures and how people can be given first aid. If KWS can do that, it will help.

Thank you.

Hon. Speaker: Let us have the Hon. Member for Endebess.

Hon. (Dr.) Robert Pukose (Endebess, JP): Thank you, Hon. Speaker. When I heard Hon. Musumba talk of crocodiles, I remembered the recent issue where *baba* and his team met crocodiles in River Jordan. I think it is good that those crocodiles were also in Kibwezi.

So, the issue of those living next to the national parks being affected by wild animals is real. My constituents in Endebess happen to be victims even though we have elephants and other animals, but not crocodiles. However, it affects all of us in a similar way because people get injured. Our crops are destroyed and we also incur debts as a result of attacks from those animals.

Unfortunately, I think in the Wildlife Act that we passed, we set the compensation too high and that is not sustainable. That might be the reason why compensation claims are not being acted upon. Many affected people have filled the P3 Forms and other claim forms seeking compensation from KWS, but they never receive any response. When some of us try to find out why that is the case, we are told that the compensation rates that were set by this House seem to be very high.

So, we might have to revisit the Act and set realistic compensation claims that can be sustainable so that it does not delay the compensations that our citizens deserve.

Thank you, Hon. Speaker.

Hon. Speaker: I do not know whether it is because of the crocodiles or what, there is a lot of interest. Let us have the Hon. Member for Seme.

Hon. (Dr.) James Nyikal (Seme, ODM): Thank you, Hon. Speaker. You are right. It is about crocodiles and hippos. Along the lake, children and cattle are dying. People cannot do horticulture along the lake because of hippos. Hon. Speaker, why I rise is that we passed the Wildlife Act here. Last year, there were two petitions relating to this matter and they were all stating that no compensation had been effected. This year, this is the second petition with a similar cry. As Hon. (Dr) Pukose has said, if the compensation levels are too high and money is not available, the Ministry concerned should come to us and say: “We cannot sustain this”, and we relook into the matter. That would be better than having an Act in place yet nothing comes out of it. I do not remember, during the Budget, seeing any request from the Department of Wildlife, or the appropriate Ministry that they needed money. We have not been told that the Ministry lacks money for compensation of victims. We should look at this Petition seriously and come up with compensation measures or else bring the matter back to the House.

Thank you, Hon. Speaker.

Hon. Speaker: Member for Mumias East.

Hon. Benjamin Washiali (Mumias East, JP): Thank you, Hon. Speaker. I thank Hon. Musimba for bringing this Petition but, as I thank him, I want to mention that, as a member of the Departmental Committee on Environment and Natural Resources, issues of human -wildlife conflict are common and are prevalent in almost every constituency.

Yesterday, Hon. Balala was appearing before us to answer a Question on human-wildlife conflict. We need to find a solution to this problem. Instead of compensating, what is it that we can do in this Parliament to stop the conflict? The CS had an answer for us because he is putting a policy in place that would answer most of those questions.

Mr. Speaker, you ruled in this House that Members who are not members of a particular Committee and attending as friends of the committee need to seek approval before attending those committee sessions. That is why we need to revisit this matter as a House to see if Members can be allowed to attend. It will help us address questions from Members who may have an interest in the matter of human-wildlife conflict.

As one of the leaders of this House, I was just asking myself whether this will be the correct route for us to follow. That is because petitions would be expensive in terms of time. Parliament will have to invite witnesses to come and, in the process, we will lose time. I was just wondering because at the end of the day, we need to get an answer from the Ministry and KWS. Could it be possible that instead of petitions, we have Questions so the Cabinet Secretaries can come and answer them?

Thank you, Hon. Speaker.

Hon. Speaker: I will leave that to individual Members to choose what they want. But, with regard to the other issue of the Communication. I will not revisit it. It was clear that if a Member desires to appear before a Committee as a friend, he or she should notify the Chairperson. Members should not just swarm a Committee’s sitting. When you go there, do not occupy the seats that are meant for members of the Committee. Remember you are not one. You should sit *huko* and if you claim to be a friend and you have been allowed, then you will be shown by the Committee Chair where to perch yourself like a bird on a tree. So, that way, you will not interfere with the normal operation and proceedings of the Committee because this has been the practice.

I am happy because most Chairpersons have kept many of you at bay whenever you have swarmed their Committee meetings in numbers that threaten them. Hon. Members, we do not

need to operate this way. Petitions are not necessarily the only way. A Member can also ask a Question. I will hear the last two comments. The first one is from Kwanza.

Hon. Ferdinand Wanyonyi (Kwanza, FORD-K): Thank you, Hon. Speaker. I am not so much affected by the human-wildlife conflict which I have heard from my colleagues. As mentioned by Hon. Nyikal, we have heard this Petition twice.

It is important for us to note that this country gets a lot of foreign exchange from tourism. People out there struggle to come and see wildlife in this country. It is important for the Ministry of Tourism and Wildlife to take this seriously and contain the situation. This is one of the foreign exchange earners of this country. As it is now, we are leaning more towards human protection than animal protection.

I once visited China and saw children being attracted to dummy animals - like a dummy elephant. However, in this country, we are blessed to have wild animals and we should not take it for granted. The Ministry of Tourism and Wildlife should protect those animals as well in as much as we are on the human protection side. I support this Petition. The Ministry should protect the wild animals because tourists travel to see them and this earns money for our country.

Hon. Speaker: As I told you yesterday, a Petition does not require support. It is important for Members to appreciate the point raised by Hon. Washiali about which method is likely to get good answers and responses. Is it where a CS will be put to task and committed to undertake certain issues? This is because a Petition is just brought to the House to seek clarification.

Member for Mavoko, why are you raising your hand?

Hon. Patrick Makau (Mavoko, WDM-K): Thank you, Hon. Speaker, for giving me a chance to speak on this Petition. The other day in my constituency, a lion was killed. I border Nairobi National Park together with Hon. Peris Tobiko. The Director of KWS flew in a chopper and came with four trucks full of game rangers. I was left wondering because of the amount of money that was used. That lion had killed two chicken, goats, sheep and three donkeys.

Looking at this Petition, I agree with Hon. Washiali. It is true we want lions and wildlife but, sometimes, the life of human beings is treated like it is not important. I was left wondering why the Director of KWS flew because when I calculated the distance from KWS headquarters in Lang'ata, it must have cost him about Kshs600,000. He would have driven and, maybe, used that money to elect an eclectic fence so as to curb the situation.

We want to protect the wildlife and promote tourism because I know Africa alone is home to 35 per cent of wildlife, minus marine animals. But very good guidelines must be put in place in terms of compensation. If you have driven along Mombasa Road, the same wildlife is causing many accidents. I am sure you have seen zebras and giraffes crossing from Nairobi National Park. I think with good management, we can control the human-wildlife conflict. Where this Petition will be directed, I am sure I will be there to give my thoughts.

Thank you, Hon. Speaker.

Hon. Speaker: You know the National Assembly discusses and resolves issues of concern to the people. Members are at liberty because the Constitution talks about freedom of speech. You are even free to say that policemen should not go in many vehicles to arrest one criminal. Therefore, the Director of KWS should also not fly to go and check circumstances surrounding the killing of an elephant or any other wildlife.

Again, remember you enact legislation. You do not participate in the legislative process. So, you are at liberty within your powers to enact whatever kind of legislation which will make

provision regarding what the House in its majority feels should be the best way to handle those kinds of situations.

Finally, let me hear Member for Samburu North. Member for Kajiado East, this is not a public rally.

Hon. Alois Lentoimaga (Samburu North, JP): Thank you, Hon. Speaker. Animals do not speak. If wildlife spoke, they would say more than we are saying here. They are being harassed, killed and we are encroaching on their territories rather than them encroaching on ours. Some of us who like wildlife feel it is unfair for human beings to encroach into wildlife territories.

In my constituency, I have a number of protected animals like the grey zebra and lions. We normally do not kill wildlife but inhabit together with them. We graze our cattle together with zebras. So, we should look into ways of protecting wildlife as well as human beings.

Thank you, Hon. Speaker.

Hon. Speaker: The Member for Mavoko should have listened. Maybe, he should take some tutorials on how to cohabit with animals. The Member for Samburu has said they live with animals peacefully. Therefore, the Petition stands committed to the Departmental Committee on Environment and Natural Resources to consider and make appropriate recommendations to the petitioner.

Next Order!

PAPERS LAID

Hon. Speaker: Leader of the Majority Party.

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

The 2018 Budget Review and Outlook Paper for the Financial Year 2019/2020 - Financial Year 2021/2222 (Medium Term Paper) from the National Treasury.

The Annual Report of the National Land Commission for the Financial Year 2016/2017.

The Report of the Auditor-General and Financial Statements of the Ethics and Anti-Corruption Commission for the year ended 30th June 2018, and the certificate therein.

The Reports of the Auditor-General and Financial Statements in respect of the following institutions for the year ended 30th June 2018, and the certificates therein:

- (i) National Biosafety Authority;
- (ii) Strategic Grain Reserve Fund;
- (iii) National Construction Authority; and
- (iv) National Housing Corporation.

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

- (a) Runyenjes Constituency.
- (b) Maara Constituency.
- (c) South Imenti Constituency.
- (d) Mbeere North Constituency.
- (e) Lagdera Constituency.
- (f) Isiolo North Constituency.
- (g) Lurambi Constituency.
- (h) Banisa Constituency.
- (i) Mandera North Constituency.

(j) Matayos Constituency.

Thank you, Hon. Speaker.

Hon. Speaker: Next Order!

NOTICES OF MOTION

Hon. Speaker: Member for South Imenti.

ADOPTION OF REPORT OF THE SPECIAL FUNDS ACCOUNTS COMMITTEE

Hon. Kathuri Murungi (South Imenti, Independent): Hon. Speaker, I beg to give notice of the following Motion:

THAT this House adopts the Report of the Special Funds Accounts Committee on audited financial statements for Political Parties Fund for the year ended June 2017, laid on the Table of the House on Wednesday, 29th August 2018.

Hon. Speaker: There is another notice of Motion by a Member that I would want to now see because I have not seen her. That is the Member by name Hon. Mary Njoroge.

(Hon. (Ms.) Mary Njoroge stood in her place)

How is it that you have some other name? You are known by another name and not this one. I have been asking the staff who this Member is and whether she is nominated or elected. You are the Member for Maragwa Constituency.

ESTABLISHING DATABASE CENTRES IN CIVIL REGISTRATION CENTRES

Hon. (Ms.) Mary Njoroge (Maragwa, JP): Hon. Speaker, I beg to give notice of the following Motion:

THAT, aware that the Constitution and the Kenya Citizenship and Immigration Act 2011 provide that every citizen is entitled to any document of registration and identification issued by the State to citizens including a birth certificate; further aware that Article 53(2) of the Constitution of Kenya provides that a child's best interest is of paramount importance in every matter concerning the child; cognisant of the fact that issuance of a birth certificate during civil registration associated with children is a challenge across the country due to, among other issues, missing information for the parents and children as a result of missing and improper documentation, damaged manual documents and lack of registration of children born outside hospital environment; deeply concerned of the delays and long queues at civil registration centres and the challenges affecting registration of children by the Ministry of Education using National Education Management Information System (NEMIS) in the country; this House urges the Government to establish database centres in all civil registration centres for the purposes of storing all the necessary information required for issuance of birth certificates to all children and put in place administrative mechanisms to

ensure that every child is automatically issued with a birth certificate before the child attains an age of three years.

Thank you, Hon. Speaker.

Hon. Speaker: I request Members who have Questions to please put your cards on the intervention box. I am saying this because I know the next Order will be Questions. Next Order!

QUESTIONS

Hon. Speaker: Member for Mwea. I am saying that because I see your name here, but I do not see your card.

Question No. 054/2018

DELAY IN DELIVERING SUBSIDISED FERTILISER TO MWEA IRRIGATION SCHEME

Hon. Josphat Kabinga (Mwea, JP): Hon. Speaker, I beg to ask the Agriculture and Livestock the following Question:

Could the Cabinet Secretary:

(i) Explain why there has always been delays by the Ministry in delivering appropriate subsidised fertiliser to Mwea Irrigation Scheme through the National Cereals and Produce Board (NCPB) depots, which results in exploitation of farmers by traders who sell fertilisers at exorbitant prices.

(ii) Give the measures the Ministry is undertaking to ensure that appropriate subsidised fertiliser is made available at the depots at the right time.

Hon. Speaker: That Question is referred to the Departmental Committee on Agriculture and Livestock to prioritise for the CS to appear, but Hon. Kabinga Wachira, you are still the one listed to ask the next Question.

Question No. 090/2018

MEASURES TO CONTAIN INVASION OF QUELEA BIRDS IN MWEA IRRIGATION SCHEME

Hon. Josphat Kabinga (Mwea, JP): Hon. Speaker, I would like to ask the Cabinet Secretary for Agriculture and Livestock the following Question:

What actions is the Ministry taking to ensure that invasion by the Quelea birds in Mwea Irrigation Scheme is contained and monitored to avoid the recurring destruction of rice in the farms before harvesting?

Hon. Speaker: It is similarly the same Committee for prioritisation. The next Question was by the Member for Kwale County

Question No. 057/2018

STEPS TO RESOLVE LAND ISSUES IN KWALE COUNTY

Hon. Speaker: The next Question was by the Member for Kwale County but, at her request, the Question is deferred.

(Question deferred)

Question No. 096/2018

NEMA APPROVAL FOR DEVELOPMENT OF SEEFAR APARTMENTS

Hon. Speaker: The next one is by the Member for Kiminini Constituency. Has he made any request? There being no information about the reasons for his absence, the Question is dropped.

(Question dropped)

Question No. 097/2018

ORIGINAL OWNER OF THE LAND OCCUPIED BY SEEFAR APARTMENTS

Hon. Speaker: Again the next Question is by the same Member. The Member is absent not desiring to be present. Again the Question is dropped.

(Question dropped)

Maybe, the Member for Suna East wants to say something about... What is it that you want to say?

POINT OF ORDER

MANDATE OF SENATE AND COUNTY ASSEMBLIES

Hon. Junet Nuh (Suna East, ODM): Thank you, Hon. Speaker, for giving me an opportunity.

Hon. Speaker, you earlier said that the National Assembly discusses matters that are of concern to the people. There is a matter that is of great concern to the people where I come from. He is asking me where I come from. I come from Suna East. Issues concerning county assemblies, as much as they are not within the National Assembly, are of concern nationally. County assemblies are fighting all over the country and the law is very clear and, as lawyers say, we never achieve that clarity. The law is clear that the Senate takes care of the interests of the counties. What is the point of having the Senate if it cannot bring sanity to the county assemblies? The county assemblies in Homa Bay, Kisumu, Machakos, Nyandarua, Wajir and Nairobi are fighting. There is a big problem in the country and we cannot just keep quiet and watch members of the county assemblies tarnishing their image. Some of the county assemblies are domiciled in our constituencies, like the County Assembly of Migori is in my constituency. So, when you hear gunshots in that area, you even fear for the people you represent.

They can become collateral damage. The attention of the House must be drawn to the fact that there are problems in the county assemblies and the Senate is not functioning as required by the Constitution of Kenya, 2010, which is now getting old. Can we sit pretty yet we took an oath to defend and uphold the Constitution? Can we just sit pretty when there are problems happening in the areas we come from even though we are not the House that is concerned?

You will not see the Senate discussing audits report of county governments. I have not seen one county that has been audited properly, or Bills of concern to the counties being tabled. I am not trying to demean the House. It is a very important House. It was created by the Constitution. You will see them discussing petitions. Yesterday, I was watching television in my office. Of late, the Kenya Broadcasting Corporation (KBC) only shows the Senate proceedings. They do not show our House proceedings. For two hours, they discussed a parliamentary group election somewhere in Mauritius. One of them was elected as the Chair of a women caucus parliamentary group. It took one-and-a-half hours for them to congratulate the appointee saying that she was a great person and that is why she was elected. Hon. Speaker, why can you not accord us that kind of time? When I became the Chief Whip of the Minority Party, nobody congratulated me. I am not belittling the matter.

(Laughter)

The issues happening at the county assemblies are now becoming matters of national security. National security is a national function. National functions are handled by this House. The reason why we sometimes discuss issues of referendum, as someone has said, is because when we see those kinds of problems on the ground, we feel that maybe we made a mistake in coming up with the county assemblies, the Senate and some offices that are of no need to the country. Hon. Speaker, I want you to look at this matter critically and if possible, discuss it with your counterpart on the other side. Members of this House have shown great concern because they discuss matters of concern to the people. The Senate is not doing the work that it is meant to do. You will see them discussing the Ruaraka Land Report and issues that have been canvassed in this House. You will see them discussing a health issue that is of no concern to them. If this matter is not addressed efficiently, it might get out of hand and become a problem.

Nowadays, Members of the County Assembly (MCAs) use the title “Honourable Member”, which is meant to be only for Members of Parliament. When I go to the village, I have to call my MCA an hon. Member. If I do not do that, he takes offence. He asks why I am not calling him *mheshimiwa*. A *mheshimiwa* who fights in the Chamber? We have to take that title away from them until they reform.

The county assemblies are supposed to be the custodians of the monies that are sent to the grassroots through devolution. They cannot even agree on a small matter of when to adjourn the House, like I saw in Kisumu yesterday. In Homa Bay County, where my Party Chairman and Leader of the Minority Party comes from, they have been quarrelling and fighting for the last one year. As a party, we are unable to know what the problem is. They stole the Mace. The Mace of Homa Bay County Assembly cannot be found. We are still looking for it. This is a very serious matter. This is an indictment on the Senate. If they cannot handle matters of concern to the counties, they do not need to be there. Look at the stealing, corruption and mess that is happening in the counties yet the Senate is in place. They are just quiet and doing nothing about it. This is a very serious matter.

I leave it there so that you can give an opportunity to one or two more people.

Hon. Speaker: Leader of the Majority Party, do you want to wade in?

Hon. Aden Duale (Garissa Township, JP): Hon. Speaker, there is nothing for you to communicate on this matter. There is no issue for the Speaker to decide.

There is a problem with the county assemblies across the country. It is good that people read the chapter on integrity and, more so, the Code of Conduct of a State officer in Articles 75, 76 and 77 of the Constitution. The onus is on the political parties to crack the whip and discipline rogue leaders. Even this House is under obligation to show the county assemblies how to behave. It is good to discuss this matter widely.

As we discuss the behaviour of the county assemblies, we must also reflect on how we behave at certain times in this Chamber. We cannot talk about other people. Looking at what is happening in the county assemblies and what happened during the passage of the Finance Bill in the National Assembly, they are learning from us. Remember how you behave is anchored in the Constitution and the Standing Orders. Some of us here are pastoralists. We have hot blood. Some of us are union leaders, others are top notch CEOs, others were politicians and, maybe, they were councilors, and others are businesspeople. The moment we enter through that door and when we are within the precincts of Parliament, our lives change. I agree with Hon. Junet. He is very concerned about what is going on.

I do not want to discuss the Senate but I have a number of reservations with regard to that House. There are 15 serious Government Bills which have stuck in the Senate for the last one year. I have no apologies to make to the leadership of the Senate. Why do I say so? When a Bill is referred to the Senate, they can disagree in totality with the Assembly and then we meet in the Mediation Committee, which is provided for in the Constitution. If we disagree with the Senate, we do not sit on their Bills. We amend as we choose. The Constitution has provided a mechanism where a Committee from the Senate and one from the National Assembly meet to agree. There are a number of issues which are pending in the Senate.

I do not know whether part of their mandate is to discipline hon. Members. Before we look outside the precincts of the National Assembly, during the 10 days that we will be on recess - if the House agrees with us tomorrow - let us do some soul-searching as Members of Parliament. Hon. Mbadi was telling me last week that the Speaker of Homa Bay County Assembly and the Mace are both missing. Those running the Assembly made their own Mace. You can imagine. When we have chaos in the Chamber, I tell Members of Parliament that the symbol of unity of the House and sitting is this Mace. You do not touch it. If we break this Mace, the House might end up being dissolved. I am told there is a wooden Mace in Homa Bay County.

(Laughter)

Hon. Mbadi's team is in charge in the County Assembly. He wants to protect the quality of the Mace. Hon. Junet is in a deep panic mode because Governor Obado is out. When Obado was away, Junet was ruling Migori County.

(Laughter)

But from this evening, the owner is back. So, Hon. Junet has to come to number two because Obado, after being in custody for one month, has been released. I have seen celebrations going on everywhere in Migori. Hon. Junet and the new Senator, Hon. Ochillo Ayako have to be very careful because Obado is back in town.

Hon. Speaker, we must first deal with our House. The House should show an example to county assemblies. County assemblies should look at the National Assembly directly and not at the Senate because we have more work we do together. They oversee, represent and make laws.

When the referendum questions are written, Hon. Junet and I have two questions which we have discussed. They are questions that must appear on the referendum paper if at all we have to save Kenya against wastage in terms of resources.

Hon. Speaker: Hon. Members, they say that you should not point at the speck in your neighbour's eye when you have not removed a log in yours. That is the long and short of the message to us in retrospect.

The Leader of the Minority Party also wishes to wade into it.

Hon. John Mbadi (Suba South, ODM): Thank you, Hon. Speaker. The issue Hon. Junet has raised, even though I have struggled to understand what the House or the Speaker is required to do, brings to light a very fundamental issue regarding the functioning of county assemblies across the country.

(Loud consultations)

Hon. Speaker, there are loud consultations. I want to take just a few minutes. This brings to light the problems in Nairobi County, Nyandarua County, Kisumu County, Kakamega County, Wajir County and, of course, Homa Bay County. Even Migori County has a problem. This brings to light one fundamental question about the functioning of our county assemblies. I agree with Hon. Junet but with a variation. I do not want to condemn the Senate *per se*. I want to ask the Senate, because they have the responsibility to ensure that our devolution works, to look into why we have problems in those assemblies. One thing that comes out clearly to me is that we need more capacity building for our counties. Some of the information that comes to us about functioning of the assemblies - and Homa Bay has been given as an example a number of times... There is no team Mbadi that is in charge. A section of Members of County Assembly (MCAs) are in charge and another section is out of the Assembly.

One thing that took me aback is that I was told that the Speaker of that Assembly adjourned the Assembly to the following afternoon at 2.30 p.m. as our Hon. Speaker would do it. Then the following day, we expect you here at 2.30 p.m. but we do not see you. Then we hear that you have already adjourned the Assembly through a text message. Some of these things look ridiculous but they have happened. Unfortunately, it has happened in my county where I am told that the Speaker of the Assembly posts on the wall that the Assembly that was supposed to reconvene the following day is indefinitely adjourned to a day he will decide. It is put on a *Whatsapp* wall and it is supposed to be treated as official communication from the Speaker.

Of course, Members go to check for the Mace because they feel that it is un-procedural and they are told that the Mace is not there. So, they report to the police and the police follow it up. I heard the Speaker claimed that she had the Mace in an unknown place.

The Mace that is purportedly used in the Homa Bay County Assembly is not made of wood. It is actually an old Mace that was in use before the new one was bought. So, it is still a Mace.

I do not want to narrow this to Homa Bay County. The Senate needs to look at county assemblies with problems and see if there are some capacity gaps which it can help in giving the Speakers to understand their Standing Orders and procedures. They also need to talk to members of the county assemblies not to behave like animals. You find MCAs carrying chairs and beating

the Speaker. Unfortunately, the Speaker is a woman. How a man can carry a chair and hit a woman cannot be supported. I cannot support that even if I am your friend. Some of those things need to be looked into and sorted out.

I support the Leader of the Majority Party. We need to assess ourselves on where we have failed and own up. Some of the bad habits come about because as the father Assembly, the children are learning from, maybe, not very honorable habits from us. 18th December 2017 was a very sad day. We were complaining then that you denied us the opportunity to express ourselves. When you deny a child an opportunity to talk, the child may behave dishonourably. The other day during the debate on the Finance Bill, I thought you gave people too much time, but still we behaved dishonourably.

Going forward as the father Assembly in the Republic, we must make sure that we behave honourably. I beseech you not to steal our Mace as it has been stolen from other assemblies. There is a Mace that is purported to have been stolen. I do not expect the Hon. Speaker to take our Mace to Dar-es-Salaam. A Mace being taken from Homa Bay to Kisumu is like taking ours to Dar-es-Salaam, Kampala or even to Washington. I know that in our case, our Mace is safe and it is only Members who behave dishonourably. Let us guarantee ourselves that we will behave honourably going forward.

The issue of Migori has been well taken care of. We are no longer campaigning. We won the senatorial election and my brother who was having issues has been released on bond. We congratulate him for winning the bail application. But let the wheels of justice roll and be fair to everybody - that is the accused and the complainants.

Thank you, Hon. Speaker.

Hon. Speaker: I know Hon. Members that it does not fall on us to debate matters that are clearly provided for under the Constitution. Article 96(1) of the Constitution provides that the Senate represents the counties and serves to protect the interests of county governments. Article 96(2), the Senate participates in the law making function of Parliament. Article 96(3), the Senate exercises oversight over national revenue appropriated to the counties in accordance with Article 217 to ensure that it is properly utilised.

Finally, Article 96(4) (4) states that the Senate participates in the oversight of State officers by considering and determining any resolution to remove the President or Deputy President from office in accordance with Article 145. *Kazi inaishia hapo.*

Indeed, those things belong there. Like I said, there are avenues and we have proposed this severally. Given that we adopted it, and we must live with it until it ceases to have 47 county assemblies and county governments, the best thing is to try and learn from available examples in the world. I know some Members of this House have year in, year out, as well as Members of the other House, attended those conferences which are held every August. The model of the National Conference of State Legislators (NCSL) in the USA is such that all Members of all state legislatures from the 50 states congregate among themselves alongside congressmen and senators at the national level to try and learn from one another best practices. It will be very useful if our county assemblies were encouraged to try and understand the operations of the NCSL. Otherwise, under our current Constitution, the county assemblies are modelled on the functioning of the National Assembly because they enact legislation within their jurisdictions. They also oversee and represent.

I want to agree with Hon. John Mbadi. If there is not much to learn from the father, the child could easily become rogue. Of course, it is also an accepted fact that from time to time, even at the national level, legislatures experience turbulence. In this country, if it was not for the

fact that we tend to have short memories...We are lucky in this House because we have Hon. Jimmy Angwenyi who, one of these days, will lecture you about what happened on Budget Day in 1997 in this very Chamber in case any of you has forgotten. That is the kind of turbulence that I am referring to. It is something that could happen from time to time. It is not an everyday occurrence. I believe Hon. Junet is worried that it seems to be an everyday occurrence. Let us not make it an everyday feature of our operations.

Hon. Junet, your sentiments have been heard. Those who are supposed to take action, I believe, will do so. I only hope that they do not have to ask you or give you examples about what you may have done that they may have copied. I hope nobody says that: "I copied what I saw Hon. Junet do on a particle day". Hon. John Mbadi has said it all. On occasion, it is deemed that the Chair has not given Members sufficient time and on other occasions, it is complained that the Chair has given Members too much time. It is a delicate balance. I believe all democracies experience those forms of turbulence from time to time.

We proceed to the next Order.

BILL

Second Reading

THE WAREHOUSE RECEIPT SYSTEM BILL

(Hon. Aden Duale on 23.10.2018)

(Debate concluded on 23.10.2018)

Hon. Speaker: Hon. Members, debate on this Motion was concluded yesterday. What remained was the Question to be put, and which I hereby do.

(Question put and agreed to)

(The Bill was read a Second Time and committed to a Committee of the whole House tomorrow)

MOTION

REPORT ON PUBLIC FINANCE MANAGEMENT (SPORTS, ARTS AND SOCIAL DEVELOPMENT FUND) REGULATIONS 2018

THAT, this House adopts the Report of the Committee on Delegated Legislation on its consideration of the Public Finance Management (Sports, Arts and Social Development Fund) Regulations, 2018 (Legal Notice No.174 of 2018), laid on the Table of the House on Wednesday, 17th October 2018, and pursuant to the provisions of Section 15(1) of the Statutory Instruments Act, 2013 and Standing Order 210 (4)(b) annuls in entirety the said Regulations.

(Hon. (Ms.) Gladys Boss Shollei on 23.10.2018)

(Debate concluded on 23.10.2018)

Hon. Speaker: Again, debate on this Motion was concluded and I proceed to put the Question.

(Question put and agreed to)

COMMUNICATION FROM THE CHAIR

CONSIDERATION OF THE HEALTH LAWS (AMENDMENT) BILL

Hon. Speaker: Member for Budalangi, take your seat. You walked in just behind the Member for Makadara and you know he does not stay for five minutes.

(Laughter)

The Member for Makadara, Hon. Aladwa, now you may have to stay for a few more minutes.

Hon. Members, before the House proceeds to Order No.10, being the Committee of the whole House on the Health Laws (Amendment) Bill, 2018, I wish to give a Communication regarding the consideration of the Bill.

Firstly, I have received a letter from the Leader of the Majority Party, who is the sponsor of the said Bill, conveying his wish to withdraw amendments relating to four statutes proposed for amendment by way of the Bill. Specifically, the Leader of the Majority Party has sought my consent to withdraw, at this stage, all amendments as published in the Bill relating to the Radiation Protection Act (Cap 243); Food, Drugs and Chemical Substances Act (Cap 254); the Narcotic Drugs and Psychotropic Substances Act No. 4 of 1994; and, some aspects of the Pharmacy and Poisons Act (Cap 244).

With regard to the first three legislations, that is the Radiation Protection Act (Cap 243); Food, Drugs and Chemical Substances Act (Cap 254) and the Narcotic Drugs and Psychotropic Substances Act No.4 of 1994, the sponsor of the Bill notes that the reason for withdrawing the amendments is that they will be included in respective separate Bills which are to be introduced and considered at a later date.

As for the fourth statute, that is, Pharmacy and Poisons Act (Cap 244), the Leader of the Majority Party wishes to withdraw amendments relating to granting, marketing authorisation (Section 25A) and establishment of National Quality Control Laboratory as a body corporate. This relates to the proposed amendments to sections 35A, 35B, 35C, 35D, 35E, 35F, 35G, 35H, 35I, 35J and 35K of the principal Act. The justification for withdrawal is that they are now to await the finalisation of the Kenya Food and Authority legislation but the House may proceed to consider other aspects of the proposed amendments to the said statute as published in the Bill.

Hon. Members, having considered the request from the Leader of the Majority Party, I have consented to the total withdrawal of the amendments to the first three statutes, that is, the Radiation Protection Act (Cap 243), Food, Drugs and Chemical Substances Act (Cap 254) and the Narcotic Drugs and Psychotropic Substances Act No.4 of 1994.

I, therefore direct that when the House resolves to Committee of the whole House, the Committee will proceed as though the amendments proposed to the three statutes were not part of the Bill. As for the request relating to the Pharmacy and Poisons Act (Cap. 244), I am constrained by our parliamentary practice which requires that the withdrawal of proposed amendments to a specific statute in an omnibus Bill ought to affect the entire statute as contained in the Bill as opposed to part of it. In this regard, I am not able to allow the part withdrawal of the proposed amendment to the Pharmacy and Poisons Act (Cap. 244) as requested. Indeed, doing so would be unconventional and would convolute the procedure in the Committee of the whole House.

Hon. Members, in mitigation, my advice with regard to the amendments on the Pharmacy and Poisons Act Cap. 244 is that the sponsor of the Bill or the relevant Committee may move that the Committee of the whole House deletes the specific provisions of the Bill at the Committee stage. As a matter of fact, I recall approving proposed amendments in the name of the Committee's Chairperson whose passage by the Committee of the whole House would have the same effect. Alternatively, the sponsor of the Bill or any other Member may move that the Committee of the whole House negatives the specific clauses should the Chairperson of the Departmental Committee fail to move the amendments.

Secondly, from the Order Paper, you may note that there are six other Members proposing to make amendments to the Health Laws (Amendment) Bill, 2018. I wish to notify the House that I have declined to approve amendments proposed by Nominated Member, Hon. Godfrey Osotsi. The amendments proposed by the Member were seeking the House to amend the Health Act of 2017 to, *inter alia*, establish a Health Disputes Tribunal, provide for remuneration of the tribunal as well as defining the jurisdiction of the tribunal.

Hon. Members, you will agree with me that the proposed amendments sound quite noble and would go a long way in improving service delivery in the health sector, while providing a mechanism for the resolution of disputes. However, I must stay true to our Standing Orders, specifically Standing Order No. 133(5). For clarity, the Standing Order states as follows and I quote:

“No amendment shall be permitted to be moved if the amendment deals with a different subject or proposes to unreasonably or unduly expand the subject of the Bill, or is not appropriate or is not in logical sequence to the subject matter of the Bill.”

Hon. Members, you will notice that the Bill as published is proposing to amend 13 pieces of statutes. The Health Act, 2017 which the Nominated Member wishes to amend is not one of those statutes. This will directly offend the above provisions of the Standing Orders by expanding the scope of the Bill. Invariably also, by creating a body corporate with attendant remuneration for the office holders, the proposal falls within the matters defined in the Constitution as “money Bills” which requires me to invoke the provisions of Article 114 of the Constitution. The said Article provides that the House may proceed only as recommended by the relevant Committee having consulted the Cabinet Secretary for the National Treasury. It is for this reason that I have declined to approve the amendments proposed by Hon. Osotsi. The Member should, therefore, not get disheartened. He should indeed proceed to introduce a legislative proposal as envisaged under Standing Order No.114.

The House and the Committee of the whole House are accordingly guided.

I thank you, Hon. Members. Next Order.

COMMITTEE OF THE WHOLE HOUSE

(Order for Committee read)

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

IN THE COMMITTEE

[The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu) took the Chair]

THE HEALTH LAWS (AMENDMENT) BILL

(Several Hon. Members walked on the aisle)

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Order, Hon. Members. Let us have order in the House. Members who are walking out of the Chamber, order! We are in the Committee of the whole House to debate the Health Laws (Amendment) Bill (National Assembly Bill No.14 of 2018). We will be guided by the Communication that has been made by Hon. Speaker..

(Clause 2 agreed to)

PHARMACY AND POISONS ACT, CAP. 244

Pharmacy and Poisons Act, Cap. 244, Section 2

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

THAT, the Schedule to the Bill be amended—

(2) in the proposed amendments to the Pharmacy and Poisons Act, Cap. 244—

(a) by deleting the proposed amendments to section 2 and substituting therefor the following new amendments—

s. 2 Delete the definition of the term “drug” and substitute therefor the following new definition—

“drug” means any medicine or other substance which has a physiological effect when ingested or otherwise introduced into the body;

Delete the definition of the term “pharmaceutical inspector”;

Delete the definition of the term “Inspector of Drugs” and substitute therefor the following new definition—

“Inspector of Drugs” means a person who is competitively recruited by

the Board as a pharmaceutical inspector and who holds a minimum of a diploma in pharmacy;

Insert the following definitions in proper alphabetical sequence—

“Good Manufacturing Practice” also known as “GMP” means a system for ensuring that products are consistently produced and controlled according to quality standards, and is designed to minimise risks involved in any pharmaceutical production that cannot be eliminated through testing the final product;

“health facility” has the meaning assigned to it in the Health Act;

“pharmaceutical device” includes human and veterinary medicines, medical products, medicinal substances, vaccines, diagnostics, blood products, therapeutic feeds, nutritional formulations, beauty products and related products;

“pharmaceutical equipment” means equipment used in the manufacture and quality control of pharmaceutical products;

“pharmaceutical practitioner” means a person lawfully carrying on the practice of pharmacy;

“pharmaceutical product” means any material or product intended for human or veterinary use presented in its finished dosage or form, that is subject to control by or under this Act;

“pharmaceutical technologist” means a holder of a diploma in pharmacy from a training institution recognised by the Board;

“pharmacist” means a holder of a degree in pharmacy from a training institution recognised by the Board;

“pharmacovigilance” means the practice of monitoring the effects of medical drugs after they have been licensed for use, especially in order to identify and evaluate previously unreported adverse reactions, and includes the science and activities relating to the detection, assessment, understanding and prevention of adverse effects or any other possible drug related problem;

“post market surveillance” means the practice of monitoring the safety and quality of a pharmaceutical drug or medical device after it has been released on the market and is an important part of the science of

No.
21 of
2017.

pharmacovigilance;

“practicing license” means a license issued under section 9A.

The Committee has proposed to provide additional terms that are used in the Act but have previously not been included in the interpretation section such as “good manufacturing practice”, “pharmaceutical device” and “pharmaceutical technologist”. The proposed amendment further seeks to introduce interpretation of various technical terms, as used in the Act such as “clinical trials”, “health products”, “health technology”, “medicinal substances” and “medical device”. The Committee looked at the terms as per the World Health Organisation’s definitions. I therefore move the amendment.

(Question of the amendment proposed)

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

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

Hon. (Dr.) Robert Pukose (Endebess, JP): Hon. Temporary Deputy Chairlady, I beg to move:

THAT, the Schedule to the Bill be amended—

(1) In the proposed amendments to the Pharmacy and Poisons Act, Cap. 244—

(a) in the proposed amendments to section 2, by inserting the following new definition in its proper alphabetical sequence—

“specialist pharmacist” means a registered pharmacist who has completed an approved postgraduate training programme in a particular field of pharmaceutical sciences, and who has gained sufficient experience and demonstrated to the Board’s satisfaction, adequate knowledge and skill in his chosen field”;

(b) in the proposed new section 3(1)(a) by inserting the words “and who shall have at least fifteen years’ experience in the pharmaceutical sector immediately after the word “President”;

(c) in the proposed new section 3A, by deleting the word “may” appearing in the opening sentence and substituting therefor the word “shall”;

(d) by deleting the proposed amendment to section 35A(5);

This is to give a further definition to the term “specialist pharmacist”. It has not been captured in the definition. We have people who have gone beyond the training of pharmacy to specialise in the area.

(Question of the amendment proposed)

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

put and agreed to)

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

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

*(Provisions relating to Pharmacy and Poisons Act, Cap. 244, Section 2
as amended agreed to)*

Pharmacy and Poisons Act, Cap. 244, Section 3

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

THAT, the Schedule to the Bill be amended -

(b) by deleting the proposed amendments to section 3 and substituting therefor the following new amendments—

s. 3 Delete and substitute therefor the following new section—

Establishment
of the
Pharmacy and
Poisons
Board.

3.(1) There is established a Board which shall consist of—

(a) a Chairperson who shall be appointed by the President and who shall—

(i) be a pharmacist of good standing with a degree in pharmacy; and

(ii) have at least fifteen years' experience in the pharmaceutical sector;

(b) the Director of pharmaceutical services;

(c) the Principal Secretary in the ministry for the time being responsible for finance or his representative;

(d) one pharmaceutical technologist with expertise in community pharmacy, nominated by the Council of Governors and appointed by the Cabinet Secretary;

(e) two pharmaceutical practitioners representing the pharmacy training institutions, of which one shall be a pharmacist and one shall be a pharmaceutical technologist;

(f) three pharmaceutical practitioners appointed by the Cabinet Secretary, of whom—

(i) one shall be a pharmaceutical technologist nominated by the Kenya Pharmaceutical Association; and

- (ii) two shall be pharmacists nominated by the Pharmaceutical Society of Kenya, and one of whom shall have expertise in industrial pharmacy;
- (g) one person with knowledge and skill in finance or audit appointed by the Cabinet Secretary;
- (h) the Chief Executive Officer, who shall be an ex officio member; and
- (i) one medical practitioner nominated by the Kenya Medical Association and appointed by the Cabinet Secretary.

(2) The persons appointed under subsection (1)(f) shall be appointed by the Cabinet Secretary from among members nominated by their relevant professional associations, each of which shall nominate two candidates in each category taking into consideration gender, ethnicity and regional balance.

(3) A person shall not qualify for appointment as a member of the Board under subsection (1)(e) and (f) unless such person is the holder of a minimum of a diploma in the relevant field from an institution recognised in Kenya and has at least five years managerial experience.

The Committee's amendment seeks to reconstitute the membership of the Pharmacy and Poisons Board so as to make it more inclusive and also to provide for the qualification of the chairperson of the board. Further, the Committee has been more specific in terms of identifying the nominating agency such as the Kenya Pharmaceutical Association and the Pharmaceutical Society of Kenya.

(Question of the amendment proposed)

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): The Leader of the Majority Party

Hon. Aden Duale (Garissa Township, JP): Hon. Pukose cannot intimidate us. I support the amendment by the Chair for the single reason that the membership of the Pharmacy and Poisons Board is inclusive of various relevant stakeholders, generally when you look at the health sector. It is good to provide for the qualification of the chairperson.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Member for Kitui Central.

Hon. Makali Mulu (Kitui Central, WDM-K): Thank you, Hon. Temporary Deputy Chairlady. I support the proposal in terms of the board Members. Even as I support, I think the number of board Members seems to be quite high. Board members are there for strategic direction and policy making. Let us not make these things appear so big as if they are technical.

The normal government boards allow for three to nine members. The maximum is nine. The boards that do better are those with fewer members because they just provide strategic direction and policy. From there you leave the technicians to implement. As I support, I think that is a point to note.

I support.

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

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

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): There is a proposed amendment by Hon. Pukose.

Hon. (Dr.) Robert Pukose (Endebess, JP): Hon. Temporary Deputy Chairlady. The amendment was to increase the length of experience to 15 years. This is in conformity with what the Committee has given there. I therefore wish to withdraw my amendment.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Go on HANSARD as having withdrawn your amendment.

Hon. (Dr.) Robert Pukose (Endebess, JP): I agree with the Committee on the experience of 15 years for the Pharmacy and Poisons Board and I therefore withdraw my amendment.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Thank you, the amendment by Hon. Pukose stands withdrawn.

(Proposed amendment by Hon. (Dr.) Robert Pukose withdrawn)

*(Provisions relating to Pharmacy and Poisons Act, Cap. 244, Section 3
as amended agreed to)*

Pharmacy and Poisons Act, Cap. 244, New Section 3A

Hon. (Dr.) Robert Pukose (Endebess, JP): Hon. Temporary Deputy Chairlady, I beg to move:

THAT, the Schedule to the Bill be amended -

(c) in the proposed new section 3A, by deleting the word “may” appearing in the opening sentence and substituting therefor the word “shall”;

This is in as far as the functions of the board are concerned. It says “it may” but I want it to be “it shall” so that the board is obligated to perform those functions.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Hon. Pukose, for clarity and satisfaction of Members, please repeat.

Hon. (Dr.) Robert Pukose (Endebess, JP): Hon. Temporary Deputy Chairlady, my justification is that in as far as the functions of the board are concerned, it says the board “may” do the following. I am saying the board “shall”.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Members, consult page 1352 of the Order Paper. Hon. Pukose, for the sake of clarity, can you just repeat so that we put the Question to the House?

Hon. (Dr.) Robert Pukose (Endebess, JP): On page 558, the Bill says the board “may”. It is giving the various functions of the board. What I am saying is that the board is obligated to do these functions. It is not optional for the board. It must be able to do these functions.

(Question of the amendment proposed)

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Let us hear the Leader of the Majority Party then we go to the Chair.

Hon. Aden Duale (Garissa Township, JP): Hon. Pukose, I really want to indulge you because we have a busy day this afternoon. I want to ask you to drop that. In legislation, when you use “shall”, that is mandatory. If you look at the functions of this board, you must give them discretion. When you say “shall”, even the timelines will be “shall”. In legislation, we use “shall” only in very few cases. Let us have “may”.

I oppose.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Leader of the Minority Party.

Hon. John Mbadi (Suba South, ODM): Thank you, Hon. Temporary Deputy Chairlady. I have just looked at the clause where Hon. Pukose wants us to put “shall” and it is basically functions. You cannot put “shall” for functions of the board because you need to allow them discretion. If they fail to perform, then the board will be removed. But they should have discretion. You cannot say the board shall authorise. You have to use the word “may” to allow the board discretion. If they fail to do what they should do then there is recourse. We will deal with them at that point.

So, I oppose that amendment.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Let us hear the Chair before I come to Hon. Pukose.

Hon. (Ms.) Rachel Nyamai (Kitui South, JP): Hon. Temporary Deputy Chairlady, I just want to urge Hon. Pukose to drop the amendment because it is very clear in the Bill. If you look at Section 3A, those are powers of the board, which it may exercise. In Section 3B, you have functions of the board and the word he is trying to insert, “shall”, is there. I urge him to withdraw the amendment.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Hon. Nyikal.

Hon. (Dr.) James Nyikal (Seme, ODM): Hon. Temporary Deputy Chairlady, in functions it is really difficult to put the word “shall”. Let us take, for example, Section 3A(d) to read: “The Board shall recall medical products from the market.” Under what circumstances are you forcing the board to recall? Why is the board recalling? The board may grant or withdraw licences to manufacturers. The function itself means there are circumstances where you do not have to do anything, and there are circumstances where you have to do something. So “may” is actually the appropriate word.

I oppose this amendment.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Let me now give opportunity to the owner of the amendment, Hon. Pukose.

Hon. (Dr.) Robert (Pukose) (Endebess, JP): Hon. Temporary Deputy Chairlady, there is some bit of confusion between powers and functions. These are the powers of the board and the others are the functions of the board. Hon. Sabina Chege had convinced me that on the powers, it is “may”. Now Dr. Nyikal is saying for the functions it is “shall”. I will go with the advice of the Chair and that of the Leader of the Majority Party and withdraw my amendment.

(Proposed amendment by Hon. (Dr.) Robert Pukose withdrawn)

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Thank you. It is on record that the amendment by Hon. Pukose to Section 3A has been withdrawn. So, let us move to the next section.

(New Section 3A agreed to)

Pharmacy and Poisons Act, Cap. 244, New Section 3B

Hon. (Ms.) Sabina Chege (Murang’a CWR, JP): Hon. Temporary Deputy Chairlady, I beg to move:

THAT, the Schedule to the Bill be amended -

(c) in the proposed new section 3B-

(i) by deleting the words “health products” appearing in the proposed new subsection (1) and substituting therefor the words “pharmaceutical products”;

(ii) by deleting the words “health products” appearing in the proposed new subsection (2) and substituting therefor the words “pharmaceutical products”;

(iii) by deleting the words “government and government agencies” appearing in the proposed new subsection (2)(a) and substituting therefor the words “national and county governments”;

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

(f) establish or prescribe the different categories of pharmacy business and the scope of practice of persons registered or enrolled in terms of this Act, or the services or acts which shall for purposes of this Act be deemed to be services or acts specially pertaining to pharmacists or pharmaceutical technologists, and the conditions under which those services may be provided or the acts which may be performed;”

(v) by deleting the word “private” appearing in the proposed new subsection (3)(h);

The amendments are consequential in line with the previous ones where the Committee deleted the proposed definition of “health products” and subsequently introduced “pharmaceutical products”. Further, the amendment to Section 3(2)(a) seeks to give the board the functions of advising both levels of government as opposed to the provision in the Bill that limits the advisory role to the government and government agencies. The amendment further gives the board the function of prescribing the scope of practice of various levels within the pharmaceutical industry.

Finally, the amendment to subsection 3(h) increases the scope of regulation of licensing as opposed to the Bill that provided for licence for private practice of pharmacists and pharmaceutical technologists.

I beg to move the amendment.

(Question of the amendment proposed)

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

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

(Provisions relating to Pharmacy and Poisons Act, Cap. 244, New Section 3B as amended agreed to)

Pharmacy and Poisons Act, Cap. 24, Section 4(5)

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Hon. Sabina Chege, are you on course? We are on Section 4(5).

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

THAT, the Schedule to the Bill be amended –

(d) by deleting the proposed amendment to Section 4(5) and substituting therefor the following new proposed amendment-4(5)

s. 4(5) Delete the word “Registrar” and substitute therefor the words “Chief Executive Officer”.

This is the issue of the term “Registrar”. The amendment seeks to ensure that the Chief Executive Officer (CEO) shall be charged with the day to day administrative matters of the board which include taking records of board meetings. He is *ex-officio* in the board.

Secondly, this is to be in harmony with the New Health Act. Thank you.

(Question of the amendment proposed)

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

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

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Hon. Members, we have only one amendment to Section 4.

(Provisions relating to Pharmacy and Poisons Act, Cap. 244,

Section 4(5) as amended agreed to)

Pharmacy and Poisons Act, Cap. 244, Section 5

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

THAT, the Schedule to the Bill be amended

(e) in the proposed amendments to Section 5—

(i) by deleting the word “ten” appearing in the proposed new subsection

(4)(d) and substituting therefor the word “fifteen”;

(ii) by inserting the word “once” immediately after the word “reappointment” appearing in the proposed new subsection (5);

This section is about the term and the amendment seeks to introduce a higher level of qualification for appointment of CEO/Registrar. It also provides clarity in the re-appointment of the CEO. It is a term of four years and only renewable once. This is in line with the *Mwongozo* and the Government's practice.

It is four years for the CEO and renewable once and three years for the board members, renewable once. For the CEO, the four years are renewable upon proper review and satisfactory performance and approval by the board.

(Question of the amendment proposed)

Hon. Aden Duale (Garissa Township, JP): It is not about putting the Question. I think the input of the Chair's amendment makes a lot of sense. In the health sector, there are certain institutions where people have been sitting there as board members for more than 15 years. What we are now saying is that for you to be a board member of any of the institutions under the health sector, you are only eligible for three years renewable once. After six years, you pack and go. For the CEO, it is four years and based on his performance, it is renewable for another four years. Then he goes. I am sure when the Parliamentary Service Bill comes, we shall also do the same for the staff of Parliament to gauge productivity.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Thank you. One more from Hon. Ndindi Nyoro.

Hon. Ndindi Nyoro (Kiharu, JP): Thank you. I rise not to support this amendment being a youth. We are increasing the work experience of the CEO from 10 to 15 and given the era in which we are living, it is one where ingenuity is more than experience in terms of your working as a CEO. Therefore, I think this amendment is against the youth of Kenya who are looking up to driving the agencies and departments in this country in the right direction. They are armed with one arm of ingenuity, imagination and innovation.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Let me break the tide. Let us have the Leader of the Minority Party before I put the Question to this. The House will take a vote on this.

Hon. John Mbadi (Suba South, ODM): When Hon. Nyoro speaks, he may persuade you that he is making a lot sense, but I want to disagree with him. When it comes to some positions like that of CEO, we do not want to see people permanently in organisations. In fact, we should

adopt a culture where you go into an organisation at that apex level, create a mark and organise your succession so that we do not have people who become dinosaurs in organisations.

In fact, I was even thinking that four years is too long a time, renewable is eight years cumulatively. My view would be like take six years and leave. In fact, I am advising Hon. Angwenyi that next time, I would like to see him either as a governor or a Senator and not a Member of Parliament. Sometimes we need to agree to move on rather than stay forever in certain positions. So, for you to become a CEO of a State corporation, you must have gained some level of experience that I doubt whether any youth would qualify to be a CEO of a State corporation.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Thank you. However, the father of the House is saying that he does not anticipate to do that.

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

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

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

*(Provisions relating to Pharmacy and Poisons Act, Cap. 244,
Section 5 as amended agreed to)*

The next proposed amendment on the same section is by Hon. Patrick Makau. Can you move your amendment?

Pharmacy and Poisons Act, Cap. 244, Section 5(4)

Hon. Patrick Makau (Mavoko, WDM-K): Hon. Temporary Deputy Chairlady, I beg to move:

THAT, the Schedule to the Bill be amended in the proposed amendments to the Pharmacy and Poisons Act, Cap.244 by deleting paragraph (b) in the proposed new Section 5(4) and substituting therefor the following new paragraph—

“(b) holds a masters’ degree in any field of pharmacy and is registered to practise pharmacy in Kenya;”

This amendment is to harmonise the qualifications of the CEO being the registrar of the technical senior management. When you look at the board, it comprises of very highly qualified persons. It will not hurt for career progression if the CEO is a holder of a Master’s Degree in Pharmacy. We are talking about people’s lives and drugs.

The CEO of this board should be its chief technical advisor. If you see the qualifications of the board members, we cannot afford to have someone who is below their qualifications. My feeling is that since we are talking about people’s lives, we raise the qualifications. In the past, we have seen Panadol tablets turning into clothes once you pour water on them. It is very sad when you look at insulin that is being imported into this country. It is my appeal to this House

that the CEO of this board should have a master's degree in the same field. That is my appeal to the House.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): That is the import of your amendment.

(Question of the amendment proposed)

Member for Ndhiwa! Hon. Members, this is the Committee of the whole House. So, let us make brief comments.

Hon. Martin Owino (Ndhiwa, ODM): I will make brief comments. I tend to agree with that amendment. This is a very technical area. I am a Member of the Committee and I think there is no harm. So, I support.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Let us have Chege Wanjiru, Member for Murang'a.

Hon. (Ms.) Sabina Chege (Murang'a CWR, JP): Thank you, Hon. Temporary Deputy Chairlady. I oppose because I think a degree is enough. There is no need to hold a master's degree. I think Hon. Gladwell should give her comments because that is her field and she has practised. I oppose the amendment.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): The Leader of the Majority Party is the last one and then I will put the Question.

Hon. Aden Duale (Garissa Township, JP): Thank you, Hon. Temporary Deputy Chairlady. I want to ask Hon. Makau to drop this amendment. This story of master's degree, there are many young competent Kenyans with first degrees. Holding a master's degree administratively will be used as an added advantage, but let us not legislate it. It does not lock you out. We did it last week when we were handling the Pensions Fund.

If you hold a master's degree or PhD, it is an added advantage during interviews. So, let us put in law the basic requirement as that of first degree in the relevant field. Hon. Makau, you are my friend, please, drop this amendment. This afternoon, we want consensus. We do not want anybody to lose an amendment.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): The last one is by Hon. Shollei. Let us hear her import and then take a vote on this.

Hon. (Ms.) Gladys Boss Shollei (Uasin Gishu CWR, JP): Thank you, Hon. Temporary Deputy Chairlady for giving me an opportunity. I oppose this particular amendment because it is contrary to any best practise in the world all over as management changes. Remember that whoever is holding this position is not a technician. This is more of a management job and has nothing to do with a person being required to have a Master's Degree in Pharmacy. In fact, if someone holds a Master's Degree in Pharmacy, it means they lack managerial experience because they have been busy learning the technical and not management work. This is completely the wrong way to go. In fact, the standard rule all over the world is that to be a CEO of a hospital, you do not need to have a degree in medicine or related field.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Hon. Members, having listened to the debates and imports arising from the Members, allow me to put the Question.

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

(Section 5(4) agreed to)

Pharmacy and Poisons Act, Cap. 244, Section 6(1)

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): The Chair, Hon. Sabina Chege, you have a proposed amendment.

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

(a) by deleting the proposed amendment to section 6(1) and substituting therefor the following new proposed amendment—

s. 6 Delete and substitute therefor the following new section—

Register of pharmaceutical practitioners.	6. The Registrar shall keep a register of pharmaceutical practitioners in the prescribed form.
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The amendment seeks to have the registrar keep a register of all pharmaceutical practitioners as opposed to the Bill, which provides that other than pharmaceutical technologists, the register shall keep a roll of pharmacy specialists. This amendment is more comprehensive than the current amendment in the Bill.

(Question of the amendment proposed)

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

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

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

*(Provisions relating to Pharmacy and Poisons Act, Cap. 244,
Section 6(1) as amended agreed to)*

Pharmacy and Poisons Act, Cap. 244, Section 8(2)

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Again, there is an amendment by the Chair, Hon. Sabina Chege.

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

THAT, the Schedule to the Bill be amended —

(h) by inserting the following new amendment immediately after the proposed new amendment to section 8(2)—

New sectio	Insert the following new sections immediately after section 9—
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n

Practising
license.

9A. (1) The Registrar shall issue, in accordance with rules made under this Act, a practising license authorising registered pharmaceutical practitioners to practice as pharmacists or pharmaceutical technologists.

(2) Every practicing license shall expire at the end of the practising year in which it was issued.

(3) The practicing year shall be from 1st January to 31st December.

(4) Any pharmaceutical practitioner who practices without a valid practicing license in line with subsection (1) commits an act of professional misconduct.

Application
for practising
license.

9B. A person wishing to be issued with a practising license under section 9A shall make an application to the Registrar in the prescribed form and such application shall be accompanied by the prescribed fee.

Issue of
practising
license.

9C. (1) Where an application for a practising license is made by a person in accordance with section 9B, the Registrar shall issue a practicing license if satisfied that the person—

- (a) is registered under section 6 of this Act;
- (b) has undertaken continuous professional development in the preceding year as prescribed by the Board; and
- (c) meets such other requirements as may be prescribed.

(2) For the purposes of this Act, a person shall be deemed to engage in the practice of pharmacy if the person—

- (a) engages in, conducts or carries on the dispensing, manufacture, compounding of any drugs or medicines, or offers any form of pharmaceutical care or pharmaceutical services within Kenya; or
- (b) advertises or represents himself or herself by a title, sign, display, declaration, or other item to be a pharmacist or pharmaceutical technologist.

(1) For purposes of this Act, it shall be a requirement for every

practising pharmacist and pharmaceutical technologist, practicing in their private capacity, government, faith based institutions, non-governmental organisations, training institutions, research organisations or any other institution, to have a valid practising license.

Refusal to issue or renew a license. 9D. The Board may deny or refuse to issue or renew a license under this Act if it determines after due process, that the applicant has failed to comply with the requirements of this Act or its rules.

Renewal, cancellation and suspension of license. 9E. (1) A pharmacist or pharmaceutical technologist issued with a license under this Act may apply for renewal of the license in the prescribed form at least thirty days before the date of expiry thereof.

(2) A pharmacist or pharmaceutical technologist who fails to renew a license within the prescribed period shall, when applying for a renewal, be required to pay such late application fee as shall be prescribed.

Continuous professional development. 9F. For purposes of maintaining a level of competence in his or her ongoing practice, every pharmacist and pharmaceutical technologist shall undertake appropriate Continuous Professional Development as prescribed by the Board.

(i) by inserting the following new amendment immediately after the proposed new section 9F—

New section

Insert the following new section immediately after section 12—

Enquiries and Disciplinary Committee.

12A. (1) The Board shall establish an Enquiries and Disciplinary Committee which shall enquire into any matter arising under section 12 of this Act.

(2) Where on the recommendations of the Enquiries and Disciplinary Committee the Board is satisfied that a pharmacist or pharmaceutical technologist is in breach of any of the terms or conditions of practice prescribed by the Board, the Board may—

- (a) issue the pharmacist or pharmaceutical technologist with a letter of admonishment;
- (b) impose a fine as may be prescribed in regulations;
- (c) suspend the registration or enrolment of the

pharmacist or pharmaceutical technologist for a specified period not exceeding five years; or

(d) remove the name of the pharmacist or pharmaceutical technologist from the Register as may be appropriate.

(3) The Board may order a pharmacist or pharmaceutical technologist to reimburse costs and expenses incurred in connection with a disciplinary hearing and such costs shall be a civil debt recoverable summarily by the Board.

The new amendment is necessary to correct an error in subsection (2). The board in regulating the profession of pharmacy recognises institutions offering courses in pharmacy that met the minimum standards set by the board to offer degree or diploma in pharmacy. Instead, the subsection will now provide that a holder of a diploma from a college approved by the board shall be entitled to be registered.

Thank you, Hon. Temporary Deputy Chairlady.

(Question of the amendment proposed)

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Let us have the Leader of the Majority Party.

Hon. Aden Duale (Garissa Township, JP): I think this amendment is very important to the holder of a diploma from a college. Currently, there is mushrooming of colleges. Any Tom, Dick and Harry can open a college. There is discretion given to the board to ensure that a holder must attain that diploma from a college approved by the board. For him or her to hold licence to operate a drug store that sells pharmaceutical products.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): So, you support the amendment. The last one is Hon. (Dr.) Otiende Amollo, Member for Rarieda. Are you on this?

Hon. (Dr.) Otiende Amollo (Rarieda, ODM): No.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Hon. Makali Muli. One more and then we take a vote on this.

Hon. Makali Mulu (Kitui Central, WDM-K): Thank you, Hon. Temporary Deputy Chairlady. While this amendment sounds good, I think we need to be careful with it. Are we saying that the board will have the responsibility of approving colleges as well as curriculum? I do not think that is its work. The Chair needs to be careful because we might be opening room for rent seeking. We are we saying “any college recognised by the board in Kenya”. What is the implication of this? Maybe, I need clarification because to recognise a college, you must have looked at the curriculum to confirm it meets your expectations.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Hon. Members, of course, there are pharmacists here. Let me hear from the Committee Members because they did their work and their Chairperson has really represented them. Let me give a chance to the Member for Baringo.

Hon. (Ms.) Gladwell Cheruiyot (Baringo CWR, KANU): Thank you, Hon. Temporary Deputy Chairlady for giving me this opportunity. Kindly, consider more Members from the Committee because we want to contribute. The Member needs to know that the board is the

overall body that is ratifying colleges which are teaching pharmacy. Such institutions are put in the register. The board regulates the institutions which are teaching pharmacy. Persons from any other institutions which the board does not recognise will not be put in the register of pharmacy. This is done after training. So, I appreciate that the register of recognised practitioners is kept at the Pharmacy and Poisons Board.

The Temporary Deputy Chairlady (Hon. (Ms) Jessica Mbalu): Let us have the last one. Hon. Onyonka, you seem to be agitated. Please, this is not debate. Let us just go to the comments and then we move on. I would appreciate.

Hon. Richard Onyonka (Kitutu Chache South, FORD-K): Actually, I support the Leader of the Majority Party. In the last Parliament, we had the same issue in the Committee on Selection when we were actually interviewing members who were being appointed to boards and as ambassadors. If you look at the boards which run all the institutions, you will realise that the standard operating procedure agreed on is that it is acceptable for a board to nominate and select whichever individual depending on what that board has picked. In other words, the point I am making is that the Leader of the Majority Party has made a very good point. Let us not belabour the issue as to whether the person who is going to be nominated is going to be nominated by the board. We already have colleges and institutions which are accepted as having been practising medicine or any other discipline in Kenya.

The Temporary Deputy Chairlady (Hon. (Ms) Jessica Mbalu): Hon. Members, I have listened to the debate. Hon. Makali, you cannot debate twice. Hon. Members, let me put the Question to the House. Let us have the father of the House because of his seniority.

Hon. Jimmy Angwenyi (Kitutu Chache North, JP): Thank you, Hon. Temporary Deputy Chairlady. We must really respect the boards which are established to manage and control our various aspects of life. There is proliferation of Kirinyaga Road diplomas. People walk down to Kirinyaga Road and get papers. The only way you can avoid that is to accept that the board must recognise the institutions from which you can get that diploma. Thank you.

The Temporary Deputy Chairlady (Hon. (Ms) Jessica Mbalu): Hon. Makali Mulu, you already spoke to Section 8(2). You cannot speak twice. I have to follow the procedure. How I wish you passed it to your other colleague to say what you wanted to say. These are the procedures. You cannot speak twice to a Bill. Let us have Hon. Otiende. Maybe Hon. Makali, you can approach Hon. Otiende. Hon. Pukose, you cannot speak twice to this.

Hon. (Dr.) Otiende Amollo (Rarieda, ODM): Thank you, Hon. Temporary Deputy Chairlady. I had initially not wished to speak, but in view of the contribution and concern by Hon. Makali, I think it behoves me to say something. I hear the concerns of Hon. Makali in terms of the idea that we might be introducing accreditation to the board. That led me, therefore, to look at the functions of the board. Looking at the functions, I realised that that is already a function. Therefore, there is no problem in introducing it here. I believe Hon. Makali's fears are already taken care of. Thank you.

The Temporary Deputy Chairlady (Hon. (Ms) Jessica Mbalu): Hon. Makali, at least your fears have been addressed. Hon. Members, having listened to the Chairperson moving the amendments, take your vote.

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

(Provisions relating to Pharmacy and Poisons Act, Cap. 244,

*Section 8(2) as amended agreed to)**Pharmacy and Poisons Act, Cap. 244, Section 20*

The Temporary Deputy Chairlady (Hon. (Ms) Jessica Mbalu): There is a proposed amendment by Hon. Sabina Chege. I can see it is on deletion and substitution of some words. For guidance of the House, in your Order Paper, it is on Page 1325. On the Bill it is on Page 596.

Hon. (Ms.) Sabina Chege (Murang'a CWR, JP): Just to let the Leader of the Majority Party know, the other sections were new and so they will be done at the end of this.

Hon. Temporary Deputy Chairlady, I beg to move:

THAT, the Schedule to the Bill be amended -

(j) in the proposed amendment to Section 20, by deleting the words “pharmacist or enrolled pharmaceutical technologist” appearing in the proposed new subsection (1B) and substituting therefor the words “pharmaceutical practitioner”;

The amendment introduces the term “pharmaceutical practitioner,” which means both a pharmacist and a pharmaceutical technologist. It is a consequential amendment to earlier amendments.

(Question of the amendment proposed)

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

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

*(Provisions relating to Pharmacy and Poisons Act, Cap. 244,
Section 20 as amended agreed to)*

Pharmacy and Poisons Act, Cap. 244, Section 23

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

THAT, the Schedule to the Bill be amended-

(k) by deleting the proposed amendments to section 23 and substituting therefor the following new proposed amendments-

^{s. 23} Delete the word “pharmacist” appearing in subsection (1) and substitute therefor the words “pharmaceutical practitioner.

Insert the following new subsection immediately after subsection (1)-

(1B) The following conditions shall apply to a premise license issued under this Act-

(a) where operations are conducted at more than one location, each

- branch shall be licensed separately by the Board;
- (b) each pharmacy shall have a pharmacist or pharmaceutical technologist-in-charge as appropriate;
 - (c) the license shall be issued subject to a satisfactory inspection of the premise by the Board;
 - (d) a community pharmacy license shall only be issued in the name of a pharmacist or pharmaceutical technologist;
 - (e) no person shall be licensed for more than one category of premise license;
 - (f) no premise shall be licensed for more than one category of premise license; and
 - (g) a clinic or hospital pharmacy shall be under the control of a pharmacist or a pharmaceutical technologist of such experience as may be prescribed.
- Delete the words “thirty thousand shillings” appearing in subsection (6) and substitute therefor the words “one million shillings”.

The amendment introduces the term “pharmaceutical practitioner,” which means both a pharmacist and a pharmaceutical technologist. It also introduces requirements to be complied with in the case of premises used for pharmaceutical activities.

Finally, the amendment enhances the penalty for contravention of the section and this will help us deal with the many pharmacies or the so-called chemists that are now in the market that are not regulated. This will sort out the quacks within this field.

(Question of the amendment proposed)

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

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

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

(Provisions relating to Pharmacy and Poisons Act, Cap. 244, Section 23 as amended agreed to)

Pharmacy and Poisons Act, Cap. 244, New Section 23A

The Temporary Deputy Chairlady (Hon. (Ms) Jessica Mbalu): We have a proposed amendment by Hon. Sabina Chege.

Hon. (Ms.) Sabina Chege (Murang’a CWR, JP): Hon. Temporary Deputy Chairlady, I beg to move:

THAT, the Schedule to the Bill be amended-

(1) in the proposed new section 23A, by deleting the words “seize all the stock held and” appearing in subsection (3);

This is the Committee amendment. The amendment deletes the requirement of seizing the stock found in non-compliant premises. Instead, it shall be sufficient only to have such premises closed. The seizure of the stock would offend the provisions of Article 40 of the Constitution which prohibits arbitrary deprivation of property.

(Question of the amendment proposed)

The Temporary Deputy Chairlady (Hon. (Ms) Jessica Mbalu): Let us have the Leader of the Majority Party, the Member for Garissa Township.

Hon. Aden Duale (Garissa Township, JP): I thank the Chair. There are two actions in this law. One is to seize and close premises. Based on Article 40 of the Constitution on the right to property and assets, the board has no right to seize products, but they have the right to close premises. That is the import of that amendment.

I support the amendment.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): I will give an opportunity to one more Member from this side. Let us have Hon. Nyikal.

Hon. (Dr.) James Nyikal (Seme, ODM): Hon. Temporary Deputy Chairlady, I support the amendment. The danger is that for the premises that are closed and products are still inside, they are likely to be opened irregularly at night. Whereas we protect property, it is important for officers to know that when the premise is closed, there is surveillance.

I support the amendment.

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

(Provisions relating to Pharmacy and Poisons Act, Cap. 244, New Section 23A as amended agreed to)

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Hon. Members, for clarity, you may notice that there are new sections that already exist in the Bill. There are also new sections that the Committee is proposing. We will look at the proposed ones later. Now we are on New Section 25A.

Hon. (Ms.) Sabina Chege (Murang’a CWR, JP): Hon. Temporary Deputy Chairlady, I wanted to ask about the New Section 24.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): The Committee is proposing New Section 24. We will consider it later. We are currently considering the new sections that already exist in the Bill. We are now considering New Section 25A. This is the time to move your amendment.

Pharmacy and Poisons Act, Cap. 244, New Section 25A

Hon. (Ms.) Sabina Chege (Murang’a CWR, JP): Thank you, Hon. Temporary Deputy Chairlady. I stand advised.

Hon. Temporary Deputy Chairlady, I beg to move:

THAT, the Schedule to the Bill be amended -

(n) by deleting the proposed New Section 25A:

This is a total deletion. This was part of what the Speaker addressed. The ministry, in consultation with the Committee, proposes that this amendment be dropped since it touches on the function of the National Quality Control Laboratory. It is further proposed that amendments touching on the nature and functions of the National Quality Control Laboratory be dropped from the Bill pending further consultation with all the relevant stakeholders.

(Question of the amendment proposed)

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Let us have Hon. Nyikal.

Hon. (Dr.) James Nyikal (Seme, ODM): We agreed, but if you look at New Section 25A strictly, it will not go with the National Quality Control Laboratory. It is so important because it is approving export and import. We are only focusing on the National Quality Control Laboratory. I want to tell the officers that this is an extremely important part. If we delete it and do not put in place systems that ensure that nobody imports or exports, it can be a problem. The issue of the National Quality Control Laboratory should be brought before this House very quickly so that we are covered.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Let me give the last chance to the Member for Wajir South, who is also a Member of the Committee.

Hon. Mohamed Mohamud (Wajir South, JP): Thank you. I am glad I am contributing, Hon. Temporary Deputy Chairlady. We consulted amongst ourselves on why we should delete this section. The reason is that we want further consultations. When we amend the National Quality Control Laboratory, it will be because we have carefully and strictly examined the reasons. That is the whole purpose for it. Otherwise, we are not throwing it away. We want to put it in order. We want to put it in such a way that quacks will not be able to infiltrate the National Quality Control Laboratory.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Let us have the Leader of the Majority Party.

Hon. Aden Duale (Garissa Township, JP): Hon. Temporary Deputy Chairlady, I am the owner of the Bill. All the people who are talking have no idea...

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Allow me to protect them, Leader of the Majority Party.

Hon. Aden Duale (Garissa Township, JP): Hon. Nyikal is right. Parliament has received a letter from the Executive, through the parent ministry, stating that they are preparing a more comprehensive Bill. That letter is a document of the House. Through the Departmental Committee on Health and the leadership, we will hold you to account if you do not table that law in the next three months. They must be aware.

Hon. Nyikal, you have worked in Government. You cannot give them one month, particularly when Christmas is around the corner. In three months, the ministry will table a more comprehensive piece of legislation concerning this item, radiation and all the other items that we have withdrawn which the Speaker communicated to the House.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Thank you for your communication and reminders. Hon. Members have a right to debate. Order, Hon. Sheikh. We do not shout here.

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

(Provisions relating to Pharmacy and Poisons Act, Cap. 244, New Section 25A deleted)

Pharmacy and Poisons Act, Cap. 244, New Section 25B

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

THAT, the Schedule to the Bill be amended-

(o) by deleting the proposed New Section 25B and substituting therefor the following new subsection –

Clinical
Trials 25B. (1) A pharmaceutical product shall not be used for clinical trial unless an approval is granted by the Board with the approval of the relevant ethics body.
(2) Any person who intends to commence a clinical trial on a pharmaceutical product shall make an application to the Board in the prescribed form and the application shall be accompanied by the study protocol in the prescribed format and the prescribed fee.

(3) The study protocol submitted under subsection (2) shall include a post-trial access program to ensure access of investigational medicinal substances by participants in a trial before grant of marketing authorisation by the Board.

(4) The Board shall prescribe guidelines for evaluation of applications made under subsection (2) to be implemented for accelerated evaluations during emergency situations, epidemics and outbreaks.

(5) A person granted an approval under section 25B (1), shall put up a robust quality assurance system to ensure that the clinical trial is carried out so as to ensure the integrity of data generated, the safety and well-being of study participants.

(6) The Board shall carry out inspections of the clinical trials so as to ensure compliance of the clinical trials with the prescribed requirements.

The amendment seeks to provide clarity and conditions under which clinical trials may be held. The Committee proposes two levels of approval for issuance of approval of clinical trials for pharmaceutical products, namely, an approval by the Board with the approval by the relevant ethics body, thus making the process more stringent.

The amendment also introduces the need for quality assurance as well as inspection of clinical trials.

(Question of the amendment proposed)

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Let us have Hon. Otiende Amollo.

Hon. (Dr.) Otiende Amollo (Rarieda, ODM): Thank you, Hon. Temporary Deputy Chairlady. While I am not opposed to this section, the Committee should clarify to us a little

more before we endorse it. When in New Clause 25B(1) it states: "...granted by the Board with the approval of the relevant ethics body", it would be good to indicate specifically which this ethics body is. My information is that we have about 22 research ethics review committees approved in the country. It might introduce some confusion when you just say "relevant ethics body". It might not be clear whether it is the internal one to the board or an external one.

Secondly, the relation of those provisions to the Science and Innovation Act of 2014 which also appears to regulate clinical trials bears some clarity. Otherwise, we might be legislating in contradiction.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): For the sake of clarity, Hon. Sabina Chege, would you like to comment on that before I put the Question? Dr. Nyikal, it has been passed to you because you have experience in this. Hon. Pukose, let us allow Hon. Nyikal to contribute.

Hon. (Dr.) James Nyikal (Seme, ODM): Hon. Pukose is a surgeon. These are medical matters to a large extent. Hon. Otiende is right that there are many research ethics bodies.

In this Act, we are looking at those involved in health. The main ones are Kenyatta National Hospital and the University of Nairobi at the Kenya Medical Research Institute (KEMRI). To a large extent, those are the ones we are referring to.

Whoever will be making the approval will make sure that the appropriate one is involved.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Thank you. I am now sure it is clear to Members. Hon. Pukose, will you take the next one? Hon. Sabina Chege, you are proposing. Hon. Pukose, make a statement.

Hon. (Dr.) Robert Pukose (Endebess, JP): Thank you, Hon. Temporary Deputy Chairlady. One of the key issues as far as the board is concerned is to protect the lives of Kenyans. More often than not, we have people sneaking in drugs for clinical trials. Therefore, this is meant to protect the safety of our health.

To add to the two boards that Hon. Nyikal has talked about, as far as matters of health are concerned, there is also an ethics committee for Moi University. So, it is the board, in addition to the other three relevant boards, to decide whether it is the one at Moi University - because this is a teaching and referral hospital - or the ones at KEMRI and Kenyatta National Hospital.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Thank you for making that clarification.

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

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

*(Provisions relating to Pharmacy and Poisons Act, Cap. 244,
New Section 25B as amended agreed to)*

Pharmacy and Poisons Act, Cap. 244, Section 27

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

THAT, the Schedule to the Bill be amended –

(p) in the proposed amendment to Section 27 by inserting the following new proposed amendment—

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

(4) No license shall be issued or renewed under this section unless the person applying for or holding such license is or has a registered pharmaceutical practitioner in control of the distribution of the poisons and the registered pharmaceutical practitioner is resident in Kenya.

The amendment deletes the word “pharmacist” and introduces the words “pharmaceutical practitioner” which means both pharmacist and pharmaceutical technologist. This is also a consequential amendment by the Committee as an earlier proposed amendment.

Thank you.

(Question of the amendment proposed)

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Hon. Nyikal, do you have something to say?

Hon. (Dr.) James Nyikal (Seme, ODM): I just want to clarify further while supporting the amendment. Basically, the main issue about this amendment is that prior to that, the law said that the wholesale business was confined to pharmacists only. But the amendment has opened to pharmaceutical technologists. In rural areas, quacks are doing this. So, it is better to get people who are trained who can do this job in the country.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Hon. Jesire.

Hon. (Ms.) Gladwell Cheruiyot (Baringo CWR, KANU): Hon. Temporary Deputy Chairlady, I want to support the amendment. For a long time, it is only degree holders who have been doing the wholesale of pharmacy. But in the real sense, the wholesale of pharmacy is more of business than dispensing. The dispensing part has always been left to diploma holders. So, there is no essence of leaving the technical part of serving the patients to diploma holders and when it comes to the business of selling drugs, which involves moving boxes from one place to another, you bar diploma holders. That is why we said that instead of leaving the business of pharmaceutical products to quacks, it is better we include diploma holders because they are the majority in the country.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Thank you. Your point is taken. I leave the vote to the House.

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

*(Provisions relating to Pharmacy and Poisons Act, Cap. 244,
Section 27 as amended agreed to)*

Pharmacy and Poisons Act, Cap. 244, Section 35A (5)

Hon. (Ms.) Sabina Chege (Murang’a CWR, JP): Hon. Temporary Deputy Speaker, I beg to move:

THAT, the Schedule to the Bill be amended –

(q) by deleting all the proposed amendments to Section 35A(5);

The ministry, in consultation with the Committee, and also through the letter brought by the Leader of the Majority Party, proposed that all amendments touching on the nature and the functions of the National Quality Control Laboratory should be withdrawn from the Bill pending consultations with all relevant stakeholders. As advised by the Leader of the Majority Party, within a month's time, we shall bring back this issue to the House.

Thank you, Hon. Temporary Deputy Chairlady.

(Question of the amendment proposed)

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Leader of the Majority Party.

Hon Aden Duale (Garissa Township, JP): Hon. Temporary Deputy Chairlady, I support the amendment, but you will guide us because based on the letter I received and communicated to Hon. Speaker, Sections 35D, 35E, 35F, 35G, 35H, 35I, 35J and 35K will go through the same fate. We are deleting them because they all concern the National Quality Control Laboratory. Procedurally, we need to deal with them one by one, but we could save on time.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Leader of the Majority Party, you have answered yourself. You are aware of the procedure. Hon. Members, we must move one by one.

I see no request.

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

*(Provisions relating to Pharmacy and Poisons Act, Cap. 244,
proposed amendments to Section 35A (5) deleted)*

(Section 35A (5) agreed to)

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): We have an amendment on the same by Hon. Pukose. Your proposed amendment is also a deletion. Go on record.

Hon. (Dr.) Robert Pukose (Endebess, JP): My amendment is in line with what the Committee has decided; deletion. So, I am proposing to delete it.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Thank you. You are on record. Your amendment falls because it is in line with the amendment we have had with Hon. Sabina Chege. For the sake of the HANSARD, the proposed amendment by Hon. Pukose has been withdrawn.

(Proposed amendment by Hon. (Dr.) Robert Pukose withdrawn)

Pharmacy and Poisons Act, Cap. 244, Section 35D

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

THAT, the Schedule to the Bill be amended –

(r) by deleting the proposed amendment to Section 35D.
This amendment is being deleted because of the same reason.

(Question of the amendment proposed)

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

*(Provisions relating to Pharmacy and Poisons Act, Cap. 244,
Proposed amendments to Section 35D deleted)*

(Section 35D agreed to)

Pharmacy and Poisons Act, Cap. 244, Section 35E

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

THAT, the Schedule to the Bill be amended –
(s) by deleting the proposed amendment to Section 35E.

(Question of the amendment proposed)

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

*(Provisions relating to Pharmacy and Poisons Act, Cap. 244,
proposed amendments to Section 35E deleted)*

(Section 35E agreed to)

Pharmacy and Poisons Act, Cap. 244, Section 35F

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

THAT, the Schedule to the Bill be amended –
(t) by deleting the proposed amendment to Section 35F;
The reason is the same. It still touches on the National Quality Control Laboratory.

(Question of the amendment proposed)

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

*(Provisions relating to Pharmacy and Poisons Act, Cap. 244,
proposed amendments to Section 35F deleted)*

(Section 35F agreed to)

Pharmacy and Poisons Act, Cap. 244, Section 35G

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

THAT, the Schedule to the Bill be amended -

(u) by deleting the proposed amendment to Section 35G.

The reason is similar.

(Question of the amendment proposed)

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

*(Provisions relating to Pharmacy and Poisons Act, Cap. 244,
proposed amendments to Section 35G deleted)*

(Section 35G agreed to)

Pharmacy and Poisons Act, Cap. 244, Section 35H

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

THAT, the Schedule to the Bill be amended –

(v) by deleting the proposed amendment to Section 35H.

The reasons are similar.

(Question of the amendment proposed)

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

*(Provisions relating to Pharmacy and Poisons Act, Cap. 244,
proposed amendments to Section 35H deleted)*

(Section 35H agreed to)

Pharmacy and Poisons Act, Cap. 244, Section 35I

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

THAT, the Schedule to the Bill be amended –

(w) by deleting the proposed amendment to Section 35I.

This is for the same reason.

(Question of the amendment proposed)

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

*(Provisions relating to Pharmacy and Poisons Act, Cap. 244,
proposed amendments to Section 35I deleted)*

(Section 35I agreed to)

Pharmacy and Poisons Act, Cap. 244, Section 35J

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

THAT, the Schedule to the Bill be amended –
(x) by deleting the proposed amendment to Section 35J.
It is for the same reason. They touch on the National Quality Control Laboratory.

(Question of the amendment proposed)

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

*(Provisions relating to Pharmacy and Poisons Act, Cap. 244,
proposed amendments to Section 35J deleted)*

(Section 35J agreed to)

Pharmacy and Poisons Act, Cap. 244, Section 35K

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

THAT, the Schedule to the Bill be amended –
(y) by deleting the proposed amendment to Section 35K.
This is for similar reason. It touches on the National Quality Control Laboratory.

(Question of the amendment proposed)

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

*(Provisions relating to Pharmacy and Poisons Act, Cap. 244,
proposed amendments to Section 35K deleted)*

(Section 35K agreed to)

Pharmacy and Poisons Act, Cap. 244, Section 44(1)

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

THAT, the Schedule to the Bill be amended –

(z) by inserting the following new amendment immediately before the proposed amendment to Section 44(1)–

S. 40(4) Delete subsection (4).

(aa) By deleting the proposed amendment to section 44 and substituting therefor the following new amendment–

s.44(1) Insert the following new paragraphs immediately after paragraph

(mm)–

(mma) the standards and practice of pharmacy;

(mmb) pharmacy education and training;

(mmc) continuing professional development for all practicing pharmacists and pharmaceutical technologists;

(mmd) criteria for issuance of pharmaceutical representatives permits;

(mme) pharmacovigilance, post market surveillance and Good Manufacturing Practice;

This amendment seeks to provide for additional matters in respect of which the Cabinet Secretary may make rules.

(Question of the amendment proposed)

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

((Provisions relating to Pharmacy and Poisons Act, Cap. 244, Section 44(1) as amended agreed to)

(Section 46 agreed to)

(New Section 50A agreed to)

MEDICAL PRACTITIONERS AND DENTISTS ACT, CAP.253

Medical Practitioners and Dentists Act, Cap.253, Section 2

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

THAT, the Schedule to the Bill be amended–

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

s.2 Delete the definition of “Board” and substitute therefor with the following new definition–

“Council” means the Kenya Medical and Dental Council constituted under section 3;

Delete the definition of “register” and substitute therefor with the following new definition -

“register” means the register of medical practitioners, dental practitioners and health institutions for public and private practice which the Council is required by section 5 to keep;

Insert the following new definitions in proper alphabetical sequence -

“assessment” means the determination of the suitability for registration under the Act by means of oral or written examination or both”;

“Cabinet Secretary” means the Cabinet Secretary for the time being responsible for matters relating to health;

“community oral health” means the provision of curative, preventive and promotive oral health care”;

“community oral health officer”, means a person who has undergone the prescribed course of training in an approved institution, and holds a diploma, higher diploma or degree in community oral health;

“general practice” means the practice of general medicine or dentistry other than specialist practice as defined in the Act;

“health facility” has the meaning assigned to it in the Health Act;

“health institution” means a facility that is operated or designed to provide in-patient or out-patient treatment, diagnostic or therapeutic interventions, nursing, rehabilitative, palliative, convalescent, preventative or other health service for public and private use by medical and dental practitioners;

“intern” means a person holding a medical or dental degree or its equivalent recognised by the Council or a person who has passed the internship qualifying examination, who is undergoing a prescribed period of internship in a recognised institution;

“internship” means a prescribed period of employment during which a medical or dental graduate works under supervision to fulfil registration requirements;

“internship qualifying examination” means a written or oral examination or both which determines the suitability of foreign trained graduates who holds a degree recognised by the Board to undergo internship”;

“licence” means an annual practicing licence issued under section 12 of this Act;

“pre-registration examination” means a written or oral examination or both which determines the suitability for registration under section 6(3) of the Act”

“professional misconduct” means a serious digression from established or recognised standards or rules of the profession, that includes a breach of such codes of ethics or conduct as may be prescribed for the profession from time to time;

“specialist” means a medical practitioner or dentist who has completed an approved post graduate training programme in a particular field of medicine or dentistry, and who has thereafter gained sufficient experience and demonstrated to the Council’s satisfaction adequate knowledge and skill, in his chosen field;

“specialist practice” means the practice of medicine or dentistry in a specialised field;

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The Committee's amendments seek to provide additional definition of terms that are used in the Act, but have previously not been included in the interpretation section.

(Question of the amendment proposed)

Hon. (Dr.) Otiende Amollo (Rarieda, ODM): Thank you, Hon. Temporary Deputy Chairman. I see that the proposed amendments seek to change the board to a council. They not only do that, but they also seek to change the name to "Kenya Medical Practitioners and Dental Council". The rationale for changing this is something I would beg to understand. In the definition proposed by the Committee at Page 1329, under the definition of "specialist", it still talks of a medical practitioner or dentists. So, the definition seems to adopt the original description. So, I am a little bit at a loss.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Member for Ndhiwa, before I give a chance to the Chair to clarify this, do you want to speak to this?

Hon. Martin Owino (Ndhiwa, ODM): Yes. I just wanted to say that I think that is a typing error. It should be "dentists" and not "dental".

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Let us get clarification from Hon. Pukose before I give a chance to the Chair and then put the Question. It is good for Members to get it right.

Hon. (Dr.) Robert Pukose (Endebess, JP): My friend, the definition there is okay. It is the Kenya Medical Practitioners and Dentists Board.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Hon. Pukose, he is not your friend. Even if he is, address him as Hon. Member.

Hon. (Dr.) Robert Pukose (Endebess, JP): Okay. Sorry, Hon. Chair. The definition is supposed to be the Kenya Medical Practitioners and Dentists Board. "Dentists" means it is wide. It is the Bachelor of Dental Surgery. That is a dentist. So, they are dentists.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Allow me to put the Question for the House to take a vote on this. Yes, Leader of the Majority Party.

Hon. Aden Duale (Garissa Township, JP): Because we have not resolved what Hon. (Dr.) Otiende Amollo has raised, what we have in the Bill is "dental". So, the Chair must move in an amended form and say "the Kenya Medical Practitioners and Dentists Board". I think you can give a chance to the Chair.

(Hon. (Ms.) Sabina Chege consulted with Hon. (Dr.) Robert Pukose)

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): She is consulting. Hon. Chris Wamalwa?

Hon. Aden Duale (Garissa Township, JP): She does not need to consult. The experts have spoken and all of us know.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): There is no microphone where she is. She must make a correction to this.

Hon. (Dr.) Chris Wamalwa (Kiminiini, FORD-K): She should move it in an amended form. It is reading "dental" as opposed to "dentists". For purposes of consistency, the Chair is supposed to clarify.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): She is now back to where the microphone is. Hon. Sabina Chege, there are observations from the Members.

Hon. (Ms.) Sabina Chege (Murang'a CWR, JP): This was part of the Bill. That is what I wanted to confirm from my legal counsel. It was an error, it should read, "the Kenya Medical Practitioners and Dentists Council". I want to move it as a further amendment.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): You cannot just say it is an error. You must move an amendment.

Hon. (Ms.) Sabina Chege (Murang'a CWR, JP): I will move it as a further amendment to read, "the Kenya Medical Practitioners and Dentists Council".

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

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

*(Provisions Relating to the Medical Practitioners and Dentists Act, Cap.253
Section 2 as amended agreed to)*

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Members, as a reminder to the House, because I may not repeat myself, we are on provisions relating to the Kenya Medical Practitioners and Dentists Act, Cap. 253. Members, I see no amendment to Section 3. I will move to put the Question.

(Loud consultations)

There is no amendment to the Act. Let me hear the Member for Tongaren. Give him the microphone.

Hon. (Dr.) Eseli Simiyu (Tongaren, FORD-K): The same issue Dr. Otiende spoke about arises here again. This is the terminology used, namely, "the Kenya Medical Practitioners and Dental Council". So, that seems to be recurring all through. It might need a clean-up. Maybe the legal team or the Clerks-at-the-Table can advise how we can clean it up.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): That is the observation of Members since there is no amendment to this section. As far as I am concerned, it is important for you to offer a solution to this.

Hon. Aden Duale (Garissa Township, JP): I agree, but this is an amendment in the Bill. We cannot amend it. Given an opportunity, we need to do a recommittal at some stage so that all the terminologies recurring in the Bill are in conformity.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): That sounds better. Because we have not given an amendment to this section as of now, it is good for the sake of the observation of Members, namely, the Member for Tongaren and Hon. Otiende. That is why we are here as Members of this august House. We are here to pass Bills that we can own. There is a proposed recommittal to this, which will help to clear some of the things we have seen in terms of terminologies. I can see the Chair nodding. So, there is no amendment to this.

(Section 3 agreed to)

Medical Practitioners and Dentists Act, Cap.253, New Section 3A

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Hon. (Ms.) Sabina Chege, there is an amendment to this. We are on New Section 3A, which is on Page 1329 of your Order Paper. Give the microphone to Sabina Chege Wanjiru.

Hon. (Ms.) Sabina Chege (Murang'a CWR), JP): Thank you, Hon. Temporary Deputy Chairlady. I wish to note that the issue of the Kenya Medical Practitioners and Dental Council was part of the main Bill. It was not a Committee amendment. Secondly, as Hon. Gladwell was trying to argue, "dental" covers others. So, as we go on with the amendments... Hon. Leader of the Majority Party, let me continue.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Hon. Sabina Chege, if you have any corrections from there, then you can only recommit.

Hon. (Ms.) Sabina Chege (Murang'a (CWR), JP): I am not recommitting. All I was saying is that we are going to recommit where the term appears in the entire Bill so that it reads in conformity with what we have amended. That is all I was saying. So, we will redefine "dentists" to cover the ones with degrees and the ones who are in the practice.

I beg to move:

THAT, the Schedule to the Bill be amended-

(b) in the proposed new section 3A-

(i) by deleting the proposed new subsection (1) and substituting therefor the following new subsection-

3A.(1) The Council shall consist of-

(a) a chairperson who shall be appointed by the President and who shall-

(i) be a specialist medical or dental practitioner of good standing with a degree in medicine; and

(ii) have at least ten years' experience, five of which shall be in a managerial position;

(b) the Director General for Health or a designated representative;

(c) four persons appointed by the Cabinet Secretary, nominated as follows-

(i) one person who shall be a representative of universities in Kenya which have the power to grant a qualification which is registerable under this Act;

(ii) one person who shall be a representative of the Kenya Medical Association;

(iii) one person who shall be a representative of Kenya Dental Association; and

(iv) one person who shall be a representative of oral health practitioners;

(d) three persons appointed by the Cabinet Secretary, as follows-

- (i) one person who shall be nominated by Kenya National Commission on Human Rights;
 - (ii) one person who shall be a representative of the private sector in health; and
 - (iii) one person with knowledge and expertise in finance or audit.
- (e) the Chief Executive Officer who shall be the Registrar and an ex officio member and also the secretary to the Council.
- (ii) by inserting the following new subsection immediately after the proposed new subsection (9)–
- (10) Pursuant to nominations in paragraphs (1) (c) and (d), each organisation shall present two nominees one of whom shall be appointed by the Cabinet Secretary taking into account ethnic diversity, gender, disability, skills mix and regional balance.

The amendments in this section seek to reconstitute the membership of the Kenya Medical Practitioners and Dental Council. It will be the Kenya Medical Practitioners and Dentists Council so as to make it inclusive of all the various relevant stakeholders in the health sector as well as to provide for the qualifications of the chairperson of the council.

(Question of the amendment proposed)

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Hon. Otiende

Hon. (Dr.) Otiende Amollo (Rarieda, ODM): Thank you, Hon. Temporary Deputy Chairlady. Under Section 3A(1)(a)(i), it says:

“Be a specialist, medical or dental practitioner of good standing with a degree in medicine and...”

The clarification I seek is whether a dentist necessarily has a degree in medicine or dentistry? That is the clarification I am seeking. It appears to me that it is inconsistent. Once we say either “a medical or dentist practitioner”, then you cannot end with a degree in medicine. I could be wrong.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Hon. Eseli Simiyu.

Hon. (Dr.) Eseli Simiyu (Tongaren, FORD-K): It should have read that he should have a degree in medicine or dentistry. There is something that has been dropped there. So, the Committee should correct it.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Let us listen to the Member for Funyula.

Hon. (Dr.) Wilberforce Oundo (Funyula, ODM): Thank you, Hon. Temporary Deputy Chairlady. Basically, it is the same issue. That statement is incomplete and I concur with my colleagues who have said that we need to include either dental surgery or dentistry, whatever term. Thank you.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): The Leader of the Minority Party.

Hon. John Mbadi (Suba South, ODM): When we put Members to committees, we look at their competences. I am wondering whether the Departmental Committee on Health has

doctors. We cannot spend time here discussing medical medicine and dentistry. We can use our time better. How do you expect me to be discussing whether medicine includes dentistry? That is the work of the Committee. What I am hearing now is that we have to add dentistry.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Hon. Pukose.

Hon. (Dr.) Robert Pukose (Endebess, JP): Thank you, Hon. Temporary Deputy Chairlady. The basic degree is actually in medicine or dentistry. There could have been a typographical error because it is supposed to be medicine or dentistry. After consulting, I think the Chair can do a further amendment.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Hon. Leader of the Majority Party.

Hon. Aden Duale (Garissa Township, JP): Hon. Temporary Deputy Chairlady, Members of this House who belong to either medicine or dentistry profession must declare their interest. We are becoming victims of the war between diploma and degree holders.

(Hon. (Dr.) James Nyikal stood in his place)

I will give you a reason, Hon. Nyikal. In the Bill, the term “dental” was covering both degree and diploma holders. That was the essence of the Bill. But here, degree holders are more and they have now forced us into using the term “dentists”. Hon. Otiende Amolo will agree with me that when we were doing the Law Society of Kenya law, lawyers in the House declared their interest. Those of us who have no medical background are about six and are trying to legislate a law. That is why Dr. Pukose is not leaving the House. By this hour, he should have been away.

(Laughter)

Hon. Temporary Deputy Chairlady, you have to protect us and you must be careful. The Members who are agitated have a stake in the law that we are passing.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Leader of the Majority Party, you are the owner of the Bill and it is important to listen to you. Hon. Nyikal, just give a statement and then I will give a chance to the Chair.

Hon. (Dr.) James Nyikal (Seme, ODM): First of all, let me clarify that there is no war or malice. What happened is that there are certain things you say in principle in committees. You say: ‘In principle, this is the way it is going to be’. When people are typing, they tend to use local language like “medical” or “dental”. There would be no war here because the only people who would then be affected would be clinical officers. Clinical officers are not regulated by this Act. They have a totally separate Act. When you come to dentists, you have dentistry and medicine. Those are two clear different sides. So, there is absolutely no cadre war here.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Let us listen to the pharmaceutical technologists.

Hon. (Ms.) Gladwell Cheruiyoi (Baringo CWR, KANU): Hon. Temporary Deputy Chairlady, I want to support the Leader of the Majority Party in this. It is not good for us to make laws that are going to be one-sided. This will make degree holders the ones the law is catering for. In this case, a dentist is not a diploma holder. So, when we just put dentist and we have not described who a dentist is, unless you want to say that a dentist will include a diploma holder and the council can cater for all. Otherwise, we will have different councils.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): There is an intervention by Hon. Chris Wamalwa.

Hon. Chris Wamalwa (Kimini, FORD-K): Thank you, Hon. Temporary Deputy Chairlady. A correction was done on this amendment to show a degree in medicine or a degree in dentistry. We know very well that this law only affects degree holders. It does not affect diploma holders. Diploma holders have their own statutes. It already exists. So, I do not see any competing interests.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Let us listen to the legal minds. Hon. Otiende Amollo.

Hon. (Dr.) Otiende Amollo (Rarieda, ODM): Thank you, Hon. Temporary Deputy Chairlady. I wanted to make two quick points. The first point has been made by the Deputy Whip. The intervention of this particular section is to assist the Committee because of their own admission that they had left out something. This then invites me to a more fundamental question. With all these interventions and corrections, are these amendments really ready for consideration?

Secondly, is it in order for the Leader of the Majority Party to impute improper motives on some Members contrary to Standing Order No.87? The Leader of the Majority Party ought to withdraw those remarks.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Without belabouring much on this, I will give the opportunity to the Chair and then Hon. Pukose.

Hon. (Ms.) Sabina Chege (Murang'a CWR, JP): Thank you, Hon. Temporary Deputy Chairlady. I just want to be clear that we also consulted stakeholders and there was no complaint about anything or these terms that are coming. I want to tell Members that we are talking about the chairperson who should be a specialist medical or dental practitioner of good standing with a degree in medicine. The further amendment I want to make is to introduce "or in dentistry" so that we cover dentists.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): But the further amendment must be moved by someone else.

Hon. Sabina Chege (Murang'a CWR, JP): It will be moved by Hon. (Dr.) Pukose.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Hon. Members, there is a further amendment to this. I will allow Hon. Omulele before Hon. (Dr.) Pukose gets ready to move the further amendment.

Hon. Christopher Omulele (Luanda, ODM): Thank you, Hon. Temporary Deputy Chairlady. I have listened to this debate and I see no trouble with it. If you look at the definitions at the second paragraph on Page 1329, there is the definition of a specialist there. It means "a medical practitioner or a dentist who has completed an approved postgraduate training in a particular field of medicine or dentistry." And Section 3A(1)(i) is talking about a specialist medical or dental practitioner. Definitely, it refers back to that definition. So, there is no trouble at all. We can do away with this extra bit of "with a degree in medicine". It is unnecessary. It can be done away with and it will still be fine.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Hon. Members, if there is any amendment or recommittal, I want to guide the House. Allow me to put this to Question as of now and then if there is a recommittal, it will be brought. I can see the Chair is still consulting. They would rather move for recommittal. I want to terminate debate on this now.

The Member for Tongaren, do you agree with that?

Hon. (Dr.) Eseli Simiyu (Tongaren, FORD-K): Hon. Temporary Deputy Chairlady, it is unfortunate that some Members of this House can actually impute improper motive on the Committee, that perhaps the Committee was not watchful. That perhaps, the Committee was pursuing interests of a certain cadre of medical practitioners and not others. This particular section deals with medical practitioners and dentists and not diploma holders. Indeed, we accommodated the Member who said that in the amendments to the Pharmacy and Poisons Board Act. In fact, I am disappointed that despite going out of our way to have her wishes on board, she can react like that.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Thank you. Let me guide the House because we cannot stay on the same section for long.

Hon. John Mbadi (Suba South, ODM): On a point of order, Hon. Temporary Deputy Chairlady.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): What is out of order, Leader of the Minority Party?

Hon. John Mbadi (Suba South, ODM): Hon. Temporary Deputy Chairlady, Hon. (Dr.) Eseli Simiyu started very well by giving us an assurance of the integrity of the Committee, but he ended badly by saying that the Committee was even accommodating, meaning there are things that were done which are not right. He is actually reinforcing our fears that this Committee has been compromised or compromised itself. How did you accommodate her? Can you explain to us the degree of this accommodation? We are probably legislating in a way that people and their interests are being accommodated.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): No, we are not exchanging. Let me give the last opportunity to the Chairperson to clarify.

Hon. (Ms.) Sabina Chege (Murang'a CWR, JP): I just want to know the interest of the Leader of the Minority Party because it is very difficult for us when we have done such a great job for you to start insinuating that there were other issues. If you have a problem with Dr. Eseli, you can sort it out. Do not drag the Committee into it. So, I want to kindly ask Hon. (Dr.) Pukose to move the further amendment, so that we do not make a law that has gaps in it.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Hon. Sabina Chege, there seems not to be an agreement with Members. Hon. Pukose, move the further amendment. The House can agree to it so that we can go back to the other one.

Hon. (Dr.) Robert Pukose (Endebess, JP): Hon. Temporary Deputy Chairlady, I am moving a further amendment.

THAT, the council shall consist of a chairperson who shall be appointed by the President and who shall be a specialist medical or dental practitioner of good standing with a degree in medicine or dentistry.

When you say "a specialist medical practitioner" medicine is already covered. When you say "a specialist dental practitioner" it covers dentists. So, we are saying "a degree in medicine or dentistry" because we have already talked about them in the above provision. Normally when you are admitted to university, just for Members' information, those who want to be medical practitioners do a degree called Bachelor of Medicine and Surgery. Those who are going to be dentists do a Bachelor of Dental Surgery. So, they are two different degrees.

(Question of the further amendment proposed)

Question, that the word to be inserted

be inserted, put and agreed to)

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Hon. Otiende, we are through with the further amendment.

Hon. (Dr.) Otiende Amollo (Rarieda, ODM): Yes, that has passed and I supported it. Before you put the Question to Section 3A in its entirety, my attention has been drawn to paragraph (e) relating to the CEO who shall be the registrar and an *ex-officio* member and also the secretary to the council. I believe you cannot be *ex-officio* and also secretary. If you are secretary, you are a substantive member. If you are *ex-officio*, then you cannot be secretary. That appears expressly contradictory.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Member for Funyula.

Hon. (Dr.) Wilberforce Oundo (Funyula, ODM): Just an issue of clarification from the Chair. Paragraph (d) says:

Three persons appointed by the Cabinet Secretary as follows—

- (i) One person who shall be nominated by the Kenya National Commission on Human Rights;
- (ii) One person who shall be a representative of the private sector in health;
- (iii) One person with knowledge and expertise in finance or audit.

The question I want to pose to the Chair is: Why are we discriminating against the public health sector in the appointment of members to sit in the council?

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Hon. Sabina Chege, make your comments on paragraph (e) and then I put the Question because there is no amendment to this. The Leader of the Majority Party.

Hon. Aden Duale (Garissa Township, JP): Hon. Temporary Deputy Chairlady, the way we are moving, we will end up with everybody saying how they think it should be and we make further amendments. This is a technical matter; either the House will agree with the amendments found on the Order Paper or not. We should go that route. If we start proposing how it should have been... You had an opportunity to file an amendment and you never did it.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Thank you, Leader of the Majority Party. On parts (c) and now (b), we have no amendments. What has been carried is the further amendment, which the House has agreed to.

Hon. Members, allow me to put the Question to the Section for you to vote on this one. That is why we have Ayes and Noes in the House.

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

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

*(Provisions Relating to the Medical Practitioners and Dentists Act, Cap.253
New Section 3A as amended agreed to)*

Medical Practitioners and Dentists Act, Cap.253, New Section 4A

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Hon. Sabina Chege, you have an amendment to New Section 4A?

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

THAT, the Schedule to the Bill be amended –

(c) in the proposed new section 4A by deleting the proposed subsection (1) and substituting therefor the following new subsection–

(1) The Council shall constitute the following committees—

(a) training, assessment, registration and human resources committee;

(b) disciplinary and ethics committee whose mandate shall include–

(i) conducting inquiries into complaints submitted to it;

(ii) regulating professional conduct;

(iii) ensuring fitness to practice and operate;

(iv) promoting mediation and arbitration between parties; and,

(v) at its own liberty, recording and adopting mediation agreements or compromise between parties, on the terms agreed;

(c) inspections, licensing, finance and general purposes committee; and,

(d) audit and risk committee.

The Committee's amendment seeks to provide with clear certainty the committees which may be constituted by the council for purposes of effective discharge of its functions. The amendment further opens up the mandate of the disciplinary committee to regulate professional conduct without limiting it only to counties. The amendment finally allows for mediation as an alternative form of dispute resolution.

(Question of the amendment proposed)

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

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

*(Provisions Relating to the Medical Practitioners and Dentists Act, Cap.253
New Section 4A as amended agreed to)*

Medical Practitioners and Dentists Act, Cap.253, New Section 4C

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

THAT, the Schedule to the Bill be amended –

(d) in the proposed new section 4C by inserting the following new subsection immediately after subsection (1) –

(1A) A person shall be qualified to be appointed as the Chief Executive Officer if the person-

(a) possesses a master's degree or its equivalent from a university recognised in Kenya;

(b) has at least ten years professional and administrative experience in matters related to health; and,

(c) meets the requirements of Chapter Six of the Constitution.

This amendment provides the qualification for appointment of the CEO of the Council. For the Members who were concerned about the terms of the CEO, it is provided in the main Bill. So, these are just further amendments.

Thank you.

(Question of the amendment proposed)

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

*(Provisions Relating to the Medical Practitioners and Dentists Act, Cap.253
New Section 4C as amended agreed to)*

(Section 5 agreed to)

Medical Practitioners and Dentists Act, Cap.253, Section 6

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

THAT, the Schedule to the Bill be amended -

(e) in the proposed amendment to Section 6 –

(i) by inserting the following new paragraph immediately after subsection (5) (e) –

“(f) has passed an examination prescribed by the Council;”

(ii) in subsection (5) by inserting the words “as is prescribed in regulations” immediately after the words “under this Act” appearing in the proviso;

The amendment provides for additional requirements to be fulfilled by persons who are not citizens of Kenya or the East African Community (EAC) partner states for them to qualify for registration as medical or dental practitioners in Kenya. This is just for the House to note that we want to protect Kenyans from doctors who are coming in and purporting to hold qualifications. Some claim they are coming for medical camps and they come and exploit us. Some even do trials when they come in the pretext of offering free medical camps.

(Question of the amendment proposed)

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

*(Provisions Relating to the Medical Practitioners and Dentists Act, Cap.253
New Section 6 as amended agreed to)*

(Section 7 agreed to)

Medical Practitioners and Dentists Act, Cap.253, Section 9(1)

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

THAT, the Schedule to the Bill be amended –

(f) by deleting the proposed deletion of section 9(1);

The amendment proposes to retain the subsection in the Act which provides for the requirement that the Registrar must publish in the Gazette the name of every medical practitioner or dentist registered in the register. This gazettelement was removed and we saw, as a Committee, it is important to retain what was in the mother Act.

I beg to move.

(Question of the amendment proposed)

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

*(Provisions Relating to the Medical Practitioners and Dentists Act, Cap.253
New Section 9(1) as amended agreed to)*

Medical Practitioners and Dentists Act, Cap.253, Section 9(2)

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

THAT, the Schedule to the Bill be amended –

(g) by inserting the following new amendment in the proposed amendment to Section 9(2) –

S. 9 (2) Delete the word “Board” and substitute therefor the word “Council”.

The amendment seeks to bring this subsection in line with the new title of the governing body under the Act, which changes from “Kenya Medical Practitioners and Dentists Board” to “Kenya Medical Practitioners and Dentists Council.”

(Question of the amendment proposed)

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Leader of the Majority Party.

Hon. Aden Duale (Garissa Township, JP): I want to ask the Chair, in the interest of time, to just say that we are replacing the Board with the Council. You are giving a lot of stories.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): She is afraid of the questions but it is good guidance and you have made it easy for all of us.

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

*(Provisions Relating to the Medical Practitioners and Dentists Act, Cap.253
Section 9(2) as amended agreed to)*

(Section 11 agreed to)

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): The Members on my right, I cannot hear your “Ayes” and “Nays”. Hon. Pukose wants me to address him but from where he sits, he may not understand where right or left is.

Medical Practitioners and Dentists Act, Cap.253, New Section 11A

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): We have a proposed amendment by Hon. Sabina Chege.

Hon. (Ms.) Sabina Chege (Murang’a CWR, JP): Hon. Temporary Deputy Chairlady, I beg to move:

THAT, the Schedule to the Bill be amended –

(h) by deleting the proposed new section 11A and substituting therefor the following new section–

New section Insert the following new section immediately after section 11A–

Recognition of specialist practice. 11B. (1) The Council may recognise a medical or dental practitioner as a specialist in any of the fields under the Act or the rules thereunder.

(2) A medical or dental practitioner shall be recognised as a specialist if the medical or dental practitioner–

(a) is a holder of a post graduate qualification equivalent to masters of medicine or dental surgery awarded after a period of training recognised by the Council; and

(b) has at least two years’ experience after obtaining the post graduate qualification under the supervision of a recognised specialist.

(3) The Council may recognise a medical or dental practitioner as a sub-specialist in any of the fields under the Act or the rules thereunder.

(4) A medical or dental practitioner shall be recognised as a sub-specialist if the medical or dental practitioner–

(a) possesses a basic specialist qualification in his or her discipline;

(b) has at least six months training;

(c) has at least one year experience under the supervision of a recognised sub-specialist.

This amendment seeks to provide with clarity the circumstances under which a person shall be given specialist recognition in the medical and dental fraternity.

(Question of the amendment proposed)

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Hon. Chris Wamalwa.

Hon. (Dr.) Chris Wamalwa (Kiminini, FORD-K): New Section 11A states about recognition of a specialised practice and states that the Council may recognise a medical or dental practitioner. I am concerned about the dental practitioner. Does it not involve the dentists?

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Hon. Chris Wamalwa is looking for clarification and it is good for the House to make a decision on this. Hon. Sabina Chege clarify the same.

Hon. (Ms.) Sabina Chege (Murang'a CWR, JP): Let me clarify to the Hon. Member that the specialists recognition is only given to doctors or dentists who have masters' degree. When you talk about the lower cadre, they cannot be specialists.

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

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

*(Provisions Relating to the Medical Practitioners and Dentists Act, Cap.253
Section 11A as amended agreed to)*

Medical Practitioners and Dentists Act, Cap.253, Section 12

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): We have a proposed amendment, a deletion by Hon. Sabina Chege.

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

THAT, the Schedule to the Bill be amended –

- (i) in the proposed amendment to section 12, by deleting the words “of the end” appearing immediately after the words “the end” in the proposed new subsection (6).

This amendment is for the purposes of correcting a grammatical error to remove repetition of words.

(Question of the amendment proposed)

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

*(Provisions Relating to the Medical Practitioners and Dentists Act, Cap.253
Section 12 as amended agreed to)*

(Sections 13 agreed to)

(Section 14 agreed to)

(Section 15 agreed to)

(New Section 15A agreed to)

Medical Practitioners and Dentists Act, Cap.253, Section 16

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Hon. Sabina Chege, you have a proposed amendment to this?

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

THAT, the Schedule to the Bill be amended –

(j) by deleting the proposed amendment to Section 16.

The Committee's amendment seeks to retain the existing subsection in the Act which provides for the mandatory requirement of publication of licences in the Gazette as opposed to leaving such publication at the discretion of the Council, to determine the manner of publication of licences issued, revoked or withdrawn.

(Question of the amendment proposed)

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

*(Provisions Relating to the Medical Practitioners and Dentists Act, Cap.253
proposed amendment to Section 16 deleted)*

(Section 19 agreed to)

(Section 20 agreed to)

Medical Practitioners and Dentists Act, Cap.253, Section 22

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): I see an amendment by Hon. Sabina Wanjiru Chege

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

THAT, the Schedule to the Bill be amended –

(k) in the proposed amendment to Section 22–

(i) in the proposed new subsection (1), by deleting the words “shall be” appearing immediately after the words “or in writing”;

(ii) in the proposed new subsection (3), by inserting the word “shillings” immediately after the words “five million”;

(iii) in the proposed new subsection (4), by deleting the word “and” appearing immediately after the word “commits” and substituting therefor the word “an”;

(iv) in the proposed new subsection (5), by inserting the words “which premises is not licensed as a health institution” immediately after the words “health institution”;

The purpose of this amendment is to correct grammatical errors.

Hon. Aden Duale (Garissa Township, JP): On a point of order, Hon. Temporary Deputy Chairman.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): The Leader of the Majority Party.

Hon. Aden Duale (Garissa Township, JP): We can sit here until the cows come back or even up to tomorrow. The Chair must tell us which grammatical errors she is correcting.

The Temporary Deputy Chairlady (Hon. (Ms) Jessica Mbalu): Thank you. I think she was getting your guidance. Chair, from the guidance of the Leader of the Majority Party, the Members need to get the import of your amendment.

Hon. (Ms.) Sabina Chege (Murang’a CWR, JP): Hon. Temporary Deputy Chairlady, now I am confused. Sometimes I am told not to speak or to speak less.

The Temporary Deputy Chairlady (Hon. (Ms) Jessica Mbalu): Get to the point.

Hon. (Ms.) Sabina Chege (Murang’a CWR, JP): Hon. Temporary Deputy Chairlady, this is grammar. There are the words “shall be” which appear immediately after the words “or in writing”. That is Section 22(1). I can read:

“A person who isn’t registered or licenced, including a person aiding or assisting therein, under this Act and makes or produces or causes to be made or produced any false or fraudulent presentation or declaration either orally or in writing shall be commits an offence...”

“Shall be” is actually an error. It should be “...in writing commits and offence.” So we delete the words “shall be” which were misplaced. That is in simple terms.

(Question of the amendment proposed)

The Temporary Deputy Chairlady (Hon. (Ms) Jessica Mbalu): Leader of the Majority Party.

Hon. Aden Duale (Garissa Township, JP): You will be the Leader of the Majority Party in the next Parliament. The Chair is proposing a new sub-section deleting the words “shall be” appearing immediately after the words “or in writing.”

The Temporary Deputy Chairlady (Hon. (Ms) Jessica Mbalu): That is a good import. The Members really make decisions from informed points. I can see Hon. Chris Wamalwa and the Leader of the Minority Party nodding to this. Let me put the Question.

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

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

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

*(Provisions Relating to the Medical Practitioners and Dentists Act, Cap.253
Section 22 as amended agreed to)*

Medical Practitioners and Dentists Act, Cap.253, Section 23

The Temporary Deputy Chairlady (Hon. (Ms) Jessica Mbalu): Hon. Sabina Chege, you have an amendment to Section 23. I can see it is deletion and insertion.

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

(1) by deleting the proposed amendment to section 23 and substituting therefor the following new proposed amendments—

s.
23 Delete the opening sentence and substitute therefor the following new opening sentence—

“The Cabinet Secretary may, after consultation with the Council, make rules generally for the better carrying out of the provisions of this Act, and any such rules may, without prejudice to the generality of the foregoing—”

Insert the following new paragraphs immediately after paragraph (d)—

(e) provide for indemnity for clients against loss or damage arising from claims in respect of any liability incurred by a practitioner or a health institution or the employee of a practitioner or health institution;

(f) provide for the training, registration, licensing and regulation of community oral health officers; and

(g) provide for the process and criteria for registration and licensing of foreign doctors.

The amendment serves to introduce the constitutionally recognised term of “Cabinet Secretary” instead of “Minister” as well as to introduce the new title of the body as the “Council” instead of the “Board”.

(Question of the amendment proposed)

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

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

*(Provisions Relating to the Medical Practitioners and Dentists Act, Cap.253
Section 23 as amended agreed to)*

(Section 24 agreed to)

(New Section 26 agreed to)

FOOD, DRUGS AND CHEMICAL SUBSTANCES ACT, CAP. 254

The Temporary Deputy Chairlady (Hon. (Ms) Jessica Mbalu): Hon. Members, we are still guided by the Speaker's Communication. Let us have the Mover, Hon. Sabina Chege, on Section 2.

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

THAT, the Schedule to the Bill be amended –

(5) by deleting the proposed amendments to the Food, Drugs and Chemical Substances Act, Cap.254.

This relates to the Food, Drugs and Chemical Substances Act, Cap. 254 and as communicated earlier, the ministry, in consultation with the Committee and the Leader of the Majority Party proposes that the amendment be dropped pending the introduction of a comprehensive Bill that will deal with the regulation of food and drugs in this country.

I beg to move.

The Temporary Deputy Chairlady (Hon. (Ms) Jessica Mbalu): Leader of the Majority Party, do you want to speak?

Hon. Aden Duale (Garissa Township, JP): Yes. I think all the items that the Speaker made a Communication on we do not need to put the Question, including this one.

The Temporary Deputy Chairlady (Hon. (Ms) Jessica Mbalu): Yes, they were excluded.

Hon. Aden Duale (Garissa Township, JP): I think the clerk should help you that anything to do with the Food, Drugs and Chemical Substances Act...

The Temporary Deputy Chairlady (Hon. (Ms) Jessica Mbalu): Let us refer again. As I said, we will be guided by the Speaker's Communication. Leader of the Majority Party, for guidance, and I have the Speaker's Communication, the Acts that were to be left out were the Radiation Protection Act, Cap. 243; the Food, Drugs and Chemical Substances Act, Cap. 254 and the Narcotic Drugs and Psychotropic Substances Act, No. 4 of 1994. We are on the Nurses Act Cap. 257.

Yes, Leader of the Minority Party.

Hon. John Mbadi (Suba South, ODM): Hon. Temporary Deputy Chairlady, maybe, I am a bit confused but I think we need to be clear on how we are moving forward. I thought in the Health Laws (Amendment) Bill, we had proposed amendments to the Food, Drugs and Chemical Substances Act, Cap. 254, which after consultations, it is agreed that they should be dropped. The Speaker has made a Communication, it is the House to drop them on our behalf. I do not think the Speaker can drop those amendments just because of a Communication.

The Temporary Deputy Chairlady (Hon. (Ms) Jessica Mbalu): Leader of the Majority Party, just make a clarification.

Hon. Aden Duale (Garissa Township, JP): Hon. Temporary Deputy Chairlady, the procedure has been always that if the Speaker receives a Communication from the Mover and he agrees with the Mover, then those items are not considered at the Committee of the whole House.

If you read the Communication from the Speaker today – in fact you must read it – he said that all those items that were dropped should not be considered. We are working in reverse gear. He said that those items should not be considered at the Committee of the whole House. I am sure you have a copy of the Speaker’s Communication.

The Temporary Deputy Chairlady (Hon. (Ms) Jessica Mbalu): Leader of the Majority Party, thank you. Let us have Hon. Akoth. I am used to Millie Odhiambo.

Hon. (Ms.) Odhiambo-Mabona (Suba North, ODM): Thank you, Hon. Temporary Deputy Chairlady. I think the issue that is being raised is very important. I think it is something that you need to consider seriously. When does a Bill become the property of the House? Once a Bill is a property of the House, the only time in the past that the Speaker would rule otherwise is if it is unconstitutional. However, the Speaker has been shy of pronouncing himself upon constitutional issues. I do not think this is really necessarily contentious. I would urge that the Chair, who is the Mover, to formally drop but then after that we get a direction from the substantive Speaker because it is really an important issue.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Thank you for your concern, Hon. Millie Odhiambo. Hon. Members, I have the official Communication of the substantive Speaker of the National Assembly. This was after consultation with the Leader of the Majority Party, as Hon. Millie Odhiambo proposed. A copy should be given to the Leader of the Minority Party. Members, allow me to read a section of the Communication from the Speaker this afternoon. It was before we started the Committee of the whole House.

“Honourable Members, having considered the request from the Leader of the Majority Party, I have consented to the total withdrawal of the amendments to the first three statutes, that is, the Radiation Protection Act (Cap. 243), the Food, Drugs and Chemical Substances Act (Cap. 254) and the Narcotic Drugs and Psychotropic Substances Act No. 4 of 1994. I, therefore, direct that, when the House resolves to Committee of the Whole, the Committee will proceed as though the amendments proposed to the three statutes were not part of the Bill. As for the request relating to the Pharmacy and Poisons Act (Cap. 244), I am constrained by our parliamentary practice, which requires that withdrawal of proposed amendments to a specific statute in an omnibus Bill ought to affect the entire statute as contained in the Bill, as opposed to part of it. In this regard, I am, therefore, not able to allow the part withdrawal of the proposed amendment to the Pharmacy and Poisons Act (Cap. 244), as requested. Indeed, doing so would be unconventional and would convolute the procedure in the Committee of the whole House.”

Hon. Millie Odhiambo and the Leader of the Minority Party you are both on point, but that was the Communication from the substantive Speaker before we started this.

Hon. John Mbadi (Suba South, ODM): We may not challenge the Speaker’s ruling at this moment but it is something that we may need to pursue with the Speaker. In my view, the Speaker is giving himself powers that he does not have. That power belongs to this House. If we continue allowing the Speaker to give himself the powers he does not have, he will be legislating for this House.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): This was a Communication backed by the Leader of the Majority Party. For now, I direct that we move as it has been communicated. Having read that and knowing the provisions that were to be left out, we move to the provisions relating to the Nurses Act, Cap. 257.

(Amendments withdrawn)

NURSES ACT, CAP. 257

Nurses Act, Cap.257, Section 2

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

THAT, the Schedule to the Bill be amended –

(6) in the proposed amendments to the Nurses Act, Cap.257 –

(a) by inserting the following new proposed amendment immediately before the proposed amendments to Section 2 –

s. 1 Insert the words “and Midwives” immediately after the word “Nurses”.

(b) in the proposed amendment to section 2 –

(i) by deleting the words “or midwife” appearing in the proposed definition of the term “nurse”;

(ii) in the definition of the term “specialist” by inserting the following new paragraph immediately after paragraph (i) –

(1a) nephrology nursing.

This changes the name of the Act from the “Nurses Act” to the “Nurses and Midwives Act” so as to capture the midwifery profession which is also regulated by the Act.

(Question of the amendment proposed)

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

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

Did you have an issue? I had not seen you. We are done anyway.

Hon. (Dr.) Chris Wamalwa (Kimini, FORD – K): Hon. Temporary Deputy Chairlady, I was waiting for Hon. Sabina Chege to justify the amendment. I thought midwives are those nurses who have advanced. In the explanation, it should have come out why it merits that the midwives should be there. We know midwives as nurses who have specialised in the field of delivery. You should have given that justification instead of assuming.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): The House has already taken the vote on the proposed amendment.

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

Nurses Act, Cap.257, Section 4

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

THAT, the Schedule to the Bill be amended –

(c) by deleting the proposed amendments to section 4 and substituting therefore the following new proposed amendment -

- Membership of
the Council
- s. 4 Delete and substitute therefor the following new section -
4. (1) The Council shall consist of the following persons appointed by the Cabinet Secretary -
- (a) a chairperson who shall -
 - (i) be a holder of a diploma or Bachelor's degree in nursing from a university recognised in Kenya; and
 - (ii) have at least ten years' experience in leadership and management;
 - (b) the Director of Nursing Services or a representative appointed in writing by the Director of Nursing Services;
 - (c) one person nominated by the National Nurses Association of Kenya;
 - (d) one person nominated by other professional associations of Kenya representing nurses and midwives;
 - (e) one representative of midwives involved in clinical practice;
 - (f) one representative of accredited mid-level institutions involved in the training of nurses and midwives in Kenya;
 - (g) one representative of accredited universities involved in training of nurses and midwives in Kenya;
 - (h) two persons nominated by the Cabinet Secretary to represent the public;
 - (i) the Chief Executive Officer who shall be the Registrar and shall be appointed in accordance to Section 11 of this Act and shall be an ex officio member of the Council.
- (2) Appointments under subsection (1)(h) shall take into consideration gender and regional balance, and the mix of skills and competencies required for the achievement of the organisation's long-term goals and notified in the *Kenya Gazette*.
- (3) A member appointed under paragraph (1)(b) shall be an ex officio member of the Council.
- (4) A member of the Council including the chairperson shall be a Kenyan citizen of good professional standing and meet the requirements of chapter six of the Constitution.
- (5) A member of the Council appointed under this Act must be a holder of a relevant diploma or degree obtained from a university or institution recognised by the Council.
- (6) A member of the Council except the ex officio members shall hold office for a term of three years and may be eligible for reappointment for one further term.
- (7) There shall be a Corporation Secretary who shall be appointed by the Council through a competitive process.
- (8) Pursuant to nominations in paragraphs (c), (d), (e), (f) and (g) of subsection (1), each organisation shall present two nominees one of whom shall be appointed by the Cabinet Secretary taking into account ethnic diversity, gender disability, skills mix and regional balance.
- The amendment seeks to reconstitute the membership of the nursing council so as to make it inclusive of all the various relevant stakeholders in the nursing and midwifery sector, as well as to provide for the qualification of the Chairperson of the Council.

(Question of the amendment proposed)

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): I will give the first opportunity to Hon. Otiende.

Hon. (Dr.) Otiende Amollo (Rarieda, ODM): Thank you, Hon. Temporary Deputy Chairlady. These proposed amendments disturbed me a little. First, 4(1)(a)(ii) states that one should “have at least 10 years’ experience in leadership and management”. It does not say “leadership or management”. I have no idea what that means.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Hon. Sabina Chege, I hope you are listening to the concerns by the Member.

Hon. (Dr.) Otiende Amollo (Rarieda, ODM): It states: “leadership and management”. I beg to be educated on what sort of situation one would be talking about.

Secondly, when it comes to appointment to these bodies, one of the most problematic issues is to prescribe a body to a point and you are not clear on which body it is. When it comes to 4(1)(b), it is very clear that appointment is by the Director of Nursing Services, 4(1)(c) is by the National Nurses Association of Kenya, but from 4(1)(d) moving down, it becomes problematic. 4 (1)(d)states: “one person nominated by other professional associations of Kenya representing nurses and midwives.” First of all, nurses are covered in (c). Now you are talking about other professional associations of Kenya but you do not say which ones. 4(1)(e) states: “one representative of midwives involved in clinical practice.” Going down, you find that these appointing entities are nebulous.

I beg to be educated on how this will be effected. In other statutes, this has always caused problems. Some people constitute themselves and say that they are the clinical midwives and this is their appointee. You find parallel bodies purporting to appoint a member to the Council.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Who will educate him? Is it the Chair or the Members of the Committee? We are in Section 4. I have already proposed the Question. Leader of the Majority Party, do you want to comment on this?

Hon. Aden Duale (Garissa Township, JP): Hon. Temporary Deputy Chairlady, when it states 10 years’ experience in leadership and management, it is very clear. At what position or management level have you served for you to be the Chair? It is the same with leadership. Even in this House, there are Chairs, Vice-Chairs, the Speaker’s Panel and the Leader of the Minority Party. Those are examples of leadership experience.

The point that I agree with him on is that there is a bit of duplication. Hon. Otiende, I do not know where you were this week. You were at the right place to propose amendments. You are currently proposing amendments but they are not in the Order Paper. We move and put the Question.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): He was actually seeking clarification. He wanted to be educated on this. Members, let us take a vote. This is your asset. You take it up or negate it. I want us to move. I will give an opportunity to one more Member.

Let us have the Member for Funyula. Do you also want to be educated?

Hon. (Dr.) Wilberforce Oundo (Funyula, ODM): I am not standing to be educated but to chip in. It is on the same note and my colleagues had raised this issue earlier. We expected the Committee to have taken adequate time to pick out the obvious cases of duplication. We are wondering, out of curiosity, exactly what happened.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Member for Wajir South.

Hon. Mohamed Mohamud (Wajir South, JP): It is not about qualification on the leadership and management. It is about experience and about the persons having knowledge through merit. Therefore, it does not quantify or qualify into qualifications.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): With that Members, take a vote on this.

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

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

*(Provisions relating to the Nurses Act, Cap.257,
Section 4 as amended agreed to)*

Nurses Act, Cap.257, New Section 4A

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): There is an amendment by Hon. Sabina Chege. Move your amendment.

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

THAT, the Schedule to the Bill be amended -

(d) in the proposed new section 4A, by deleting the words "and shall be the secretary to the Board" appearing at the end of the sentence;

The amendment seeks to ensure that the secretary to the Board shall be the Chief Executive Officer and not the Corporation Secretary.

Hon. Member: Where are we?

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): We are on nurses on New Section 4A.

Hon. Aden Duale (Garissa Township, JP): On a point of order, Hon. Temporary Deputy Chairlady.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Hon. Leader of the Majority Party.

Hon Aden Duale (Garissa Township, JP): Hon. Temporary Deputy Chairlady, you do not need to answer a question like where we are. That is not your business. He is busy consulting Hon. Onyonka and Hon. Millie Odhiambo.

Hon. (Ms.) Odhiambo-Mabona (Suba North, ODM): On a point of order, Hon. Temporary Deputy Chairlady.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): This is a nice break.

Hon. (Ms.) Odhiambo-Mabona (Suba North, ODM): Thank you, Hon. Temporary Deputy Chairlady. Is Hon. Duale in order to suggest that I am confusing a whole chairman of a party and an incoming whole governor? I can only bring good tidings and intellectual discussions. I am guiding them on serious issues of the law.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Thank you.

Hon. John Mbadu (Suba South, ODM): Hon. Temporary Deputy Chairlady, I am not confused and I will never be confused. I am on Page 1333 on New Section 4A. I am very alert.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Thank you. You are alert and you are not confused. On a light note, that was a nice break.

Hon. Members, back to business.

(Question of the amendment proposed)

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

*(Provisions relating to the Nurses Act, Cap.257,
New Section 4A as amended agreed to)*

Nurses Act, Cap.257, Section 5(1)

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Hon. Sabina Chege move the amendment.

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

THAT, the Schedule to the Bill be amended –

(e) in the proposed amendment to section 5(1), by inserting the words “Chapter 6 of” immediately after the words “provisions of” in the proposed new paragraph (c);

The amendment seeks to provide clarity to the chapter in the Constitution which if contravened will constitute an offence. The Bill as drafted provides that contravention of any provision of the Constitution is a ground for disqualification for appointment to the council. The Committee’s amendment seeks to specify such contravention to Chapter Six of the Constitution that relates to leadership and integrity.

(Question of the amendment proposed)

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

*(Provisions relating to the Nurses Act, Cap.257,
Section 5(1) as amended agreed to)*

(Section 5(3) agreed to)

(Section 6 agreed to)

(Section 7(1) agreed to)

Nurses Act, Cap.257, Section 7(2)

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Hon. Sabina Chege, move the amendment.

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

THAT, the Schedule to the Bill be amended -

(f) by deleting the proposed amendment to section 7(2) and substituting therefor the following new amendment—

s. 7(2) Delete and substitute therefor the following new subsection—

“(2) The chairperson may at any time convene a special meeting of the Council and shall do so within fifteen days of a written requisition of the meeting signed by at least five members.”

The amendment proposes to increase the number of members who may request for a special meeting. A special meeting shall be requested by five members instead of four members.

(Question of the amendment proposed)

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

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

(Provisions relating to the Nurses Act, Cap.257, Section 7(2) as amended agreed to)

(Section 8(1) agreed to)

(Section 8(2) agreed to)

Nurses Act, Cap.257, Section 9(1)

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Hon. Sabina Chege move the amendment.

Hon. (Ms.) Sabina Chege (Murang’a CWR, JP): Hon. Temporary Deputy Chairlady, I beg to move:

THAT, the Schedule to the Bill be amended -

(g) in the proposed amendment to section 9(1), by deleting the proposed amendment to delete the words “nursing commodities” in paragraph (i);

This is on nursing commodities as some of the items which the Council should have the mandate to ensure that they are of high standards to guarantee quality service delivery. Paragraph one should therefore be retained as it is in the Act provided that the Council among others has regard to the standards on nursing commodities.

(Question of the amendment proposed)

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Hon. Nyikal.

Hon. (Dr.) James Nyikal (Seme, ODM): Hon. Temporary Deputy Chairlady, I support this amendment. There are commodities like syringes, needles and bandages that are used in nursing a lot. The proposal is that they stay as is in the Act. There is a proposal in the Health Act to get a body to deal with all these issues. Again, we need that to be brought quickly but for the time being, I support this amendment.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Leader of the Majority Party.

Hon. Aden Duale (Garissa Township, JP): Hon. Temporary Deputy Chairlady, I do not know how the leadership of the Nursing Council of Kenya got my number. They were sending me text messages. I want to tell them that in legislation, they need to appear before committees, which they did. I have seen it in the Report. If they have appeared before the Committee and the Committee listened to them, they have no reason to fill my inbox saying that I should help them. I support this but I am sure as we bring back that comprehensive law, particularly dealing with how to reform the National Quality Control Laboratory... How does a nurse confirm the quality of a syringe or a glove?

As a country, we need to be very serious. That function is given to the standards body – the one that has the capacity and the technical expertise to tell whether it is generic or original. I am sending a message to my friends, nurses, even those who voted for me, that you have only two months. Once that law comes in, you will lose this thing called nursing commodity. Their function is to help patients, not to deal with quality of the products that are used in the hospitals. We need to be clear.

Also, let them have one council. There are a number of them who have sent me text messages. Please, do not send me messages. I support, but do not send me text messages, appear before Committees.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Hon. Pukose.

Hon. (Dr.) Robert Pukose (Endebess, JP): Hon. Temporary Deputy Chairlady, I am opposing this amendment.

Hon. (Ms.) Odhiambo-Mabona (Suba North, ODM): But you are a Member of the Committee.

Hon. (Dr.) Robert Pukose (Endebess, JP): I am in the Departmental Committee on Energy, not the Departmental Committee on Health.

Hon. (Ms.) Odhiambo-Mabona (Suba North, ODM): Misdirected expertise.

Hon. (Dr.) Robert Pukose (Endebess, JP): Hon. Temporary Deputy Chairlady, I am opposing because to me, the nurses do not have the capacity to determine the quality of the syringes or what they are calling the nursing commodities. I challenge Hon. (Dr.) Nyikal because this is an issue that we should leave to those who are in charge.

When it comes to syringes, there is what we call good manufacturing practices. This can only be assessed by the Pharmacy and Poisons Board or the National Quality Control Laboratory. Those are the entities that have the equipment and the expertise to examine whether the syringe can leak. For example, if you inject somebody with blunt needles, it creates tissue damage. There are syringes which when you put medicines, they leak. That cannot be determined by the nursing council of Kenya or National Nurses Association.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Let me give an opportunity to Hon. Millie Odhiambo.

Hon. (Ms.) Odhiambo-Mabona (Suba North, ODM): Hon. Temporary Deputy Chairlady, thank you for indulging me. Because of multiple roles, sometimes it becomes difficult to remember where the card is. So, thank you for indulging me. That is why I am carrying my hand like a person in class one.

I wish to support the amendment. The reason why I support it is that as a country, we should get away from this mental frame where we think that nurses are low cadre. As I stand here and speak before you, I have a niece who has just graduated with a degree in nursing. She

got a straight 'A' at O-level. Nursing is not inferior job, it is a superior position. In the USA, it is an exalted position. These are people with intellectual minds that can see. They are the ones who use these tools.

Having said that, I was very far and the reason I came back is because my constituents sent me a message to be in the House. I encourage my constituents. That is why I am employed. Above all, when a serious person like Dr. Nyikal speaks, I listen. He is an expert. So, if he tells me this is good, I know it is good.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): The last one is the Leader of the Minority Party.

Hon. John Mbadi (Suba South, ODM): Hon. Temporary Deputy Chairlady, in addition to reasons given by Hon. Millie, we need to support this amendment because when I place people in committees, I have a reason for doing so. I placed Nyikal in the Health Committee to be able to advise my side of the coalition. He is my shadow cabinet for health. Dr. Nyikal has advised me strongly that I whip our side to support this amendment, and so I do.

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

*(Provisions relating to the Nurses Act, Cap.257,
Section 9(1) as amended agreed to)*

Hon. (Ms.) Sabina Chege (Murang'a CWR, JP): Hon. Temporary Deputy Chairlady, it seems even the microphones require some health break. We need to have a way of taking a health break because for some of us, our kidneys might be affected.

I beg to move:

THAT, the Schedule to the Bill be amended –

(h) by deleting the proposed amendment to section 10(2);

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Hon. Sabina, you are speaking to Section 10(1), (2), (6) and (7). I want to carry the whole section together.

Hon. (Ms.) Sabina Chege (Murang'a CWR, JP): That is why I said I am only making an amendment on 10(2). We are deleting section 10(2). The Council should have the discretion to establish such other committees as they may deem necessary and such committees should not only be *ad hoc* committees, but any committee as the Council may deem appropriate.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Yes, Hon. Leader of the Majority Party.

Hon. Aden Duale (Garissa Township, JP): Chair, for neatness, we need to deal with the other sections where there are no amendments at ago. Then, we should only deal with Section 10(2) which has an amendment.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Because they follow each other, we must start with Section 10(1). We cannot go to Section 10(3) without Section 10(1).

(Section 10(1) agreed to)

Nurses Act, Cap.257, Section 10(2)

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Hon. Sabina Chege, we have an amendment to this.

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

THAT, the Schedule to the Bill be amended –
(h) by deleting the proposed amendment to section 10(2);

(Question of the amendment proposed)

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

*(Provisions relating to the Nurses Act, Cap.257,
proposed amendment to Section 10(2) deleted)*

(Section 10(6) agreed to)

(Section 10(7) agreed to)

Nurses Act, Cap.257, Section 11(1)

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): There is an amendment by the Chair.

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

THAT, the Schedule to the Bill be amended –

(i) in the proposed amendment to section 11(1) by inserting the words “or midwife” immediately after the word “nurse” in the proposed new paragraph (a);

The question that arose was about midwives and nurses. This amendment seeks to provide that the Registrar of the Council be either a nurse or a midwife since the Act regulates both nurses and midwives. It is only that Hon. Wamalwa has left, I would have explained the difference. Now that he is gone, I beg to move.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Hon. Amollo is in the House.

Hon. (Ms.) Sabina Chege (Murang'a CWR, JP): Where is he?

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Hon. Amollo, Hon. Sabina Chege wants to explain.

Hon. (Ms.) Sabina Chege (Murang'a CWR, JP): I have said Hon. Wamalwa.

(Question of the amendment proposed)

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

*(Provisions relating to the Nurses Act, Cap.257,
Section 11(1) as amended agreed to)*

(Section 11(2) agreed to)

Nurses Act, Cap.257, Section 11(4)

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

THAT, the Schedule to the Bill be amended –

(j) by deleting the proposed amendment to Section 11(4) and substituting therefor the following new amendment–

s.11 (4) Delete the word “may” appearing in subsection (4) and substitute therefor the word “shall”.

The amendment seeks to ensure that the council shall retain the power to prescribe the payment of retention fees to be made annually or for the period longer than a year, as it may deem fit.

(Question of the amendment proposed)

(Hon. John Mbadi spoke off record)

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Hon. Leader of the Minority Party, you do not speak from where you are. Go on record. She gave an explanation to this.

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

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

(Provisions relating to the Nurses Act, Cap.257, Section 11(4) as amended agreed to)

Nurses Act, Cap.257, Section 11(5)

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

THAT, the Schedule to the Bill be amended –

(k) by deleting the proposed amendment to section 11(5) and substituting therefor the following new amendment–

s. 11(5) Delete subsection (5) and substitute therefor the following new subsection–

“(5) The officers appointed under this section shall be paid such remuneration and allowances as the Council may from time to time determine.”

The amendment seeks to retain the current provision as it exists in the Act; providing for the remuneration of officers. It removes the requirement that the Council has to seek the approval of the Cabinet Secretary in determining the remuneration of the officers.

(Question of the amendment proposed)

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): We can get the clarification. Let us have Hon. Member for Kanduyi, then Hon. Maanzo.

Hon. Wafula Wamunyinyi (Kanduyi, FORD-K): Thank you, Hon. Temporary Deputy Chairlady. I have been trying to follow in order to catch up. From the explanation by the Chair, it is not very clear what has informed this proposed amendment. It is good for you to explain what has informed that amendment.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Hon. Member of Tongaren before the Chair comes in. Hon. Simiyu Eseli.

Hon. (Dr.) Eseli Simiyu (Tongaren, FORD-K): I think there is a printing error here. He might be amending the wrong thing. If you go to Section 11(5), it is about appointment of the Registrar under subsection 1. It says it may be renewed subject to a satisfactory performance, while what we are talking about is that the officers appointed under this section shall be paid such remuneration and allowances as the Council may from time to time determine.

I think something has moved out of shape here. There is a clerical error, so I would propose that we leave it and recommit at the end.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): We can only take a vote on that. Hon. Chair.

Hon. (Ms.) Sabina Chege (Murang'a CWR, JP): Thank you, Hon. Temporary Deputy Chair.

I just want to go to the main Act; Section 11(5) reads:

“The Registrar and other officers appointed under this section shall be paid such remuneration and allowances as the Council, with the approval of the Minister, may from time to time determine”.

The only thing we are doing is removing the approval of the Cabinet Secretary.

Hon. Members: Why are you removing the Minister?

Hon. (Ms.) Sabina Chege (Murang'a CWR, JP): How would the Minister determine how much a clerk or an officer in a council would earn? If you look at the composition of the council, there are people who sit in the council and represent the Minister.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Let us listen to Hon. Otiende Amollo.

Hon. (Dr.) Otiende Amollo (Rarieda, ODM): The Temporary Deputy Chairlady, I hope the Chair of the Committee is listening. Having listened to the explanation, the intervention by Hon. (Dr.) Eseli Simiyu is even more valid. The proposed amendment here is to delete the proposed section 11(5). In which case then it means that we are not seeking to delete the proposed Section 11(5), we are seeking to adjust a different section. So, the proposal as it is here is wrong then. What it is deleting is a different part from what it seeks to address.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Hon. Pukose.

Hon. (Dr.) Robert Pukose (Endebess, JP): Thank you, Hon. Temporary Deputy Chairlady. This is the amendment on the main Act, where we are deleting the Cabinet Secretary from determining how much these officers should be paid. It should be the work of the council that will sit and determine how much they are going to pay their members in consultation with the Salaries and Remuneration Commission (SRC). Why would you need the Cabinet Secretary to approve that?

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): The Leader of the Majority Party.

Hon. Aden Duale (Garissa Township, JP): Hon. Temporary Deputy Chair, this amendment is trying to remove the consultation and the approval of the Minister. That is the only thing missing. They are right because the Cabinet Secretary under the law has no powers to decide on how much allowances and remuneration people must be paid. The council should be the deciding factor based on what SRC will provide.

(Hon. John Mbadi consulted loudly)

The Leader of the Minority Party, listen to me. You know, you have already formed an opinion you want to reject. These people are removing the consultation by the council and the Minister on the allowances. That in itself is illegal because allowance and remuneration are set and paid by the SRC. Like in Parliament the Parliamentary Service Commission uses the terms and conditions and what is set by SRC. This amendment is saying that the officers appointed under this section shall be paid such remuneration and allowances as the council may from time to time make a determination. Time to time based on SRC. So, a Minister has no role here. I agree with this amendment.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Hon. Maanzo.

Hon. Daniel Maanzo (Makueni, WDM-K): All that the Leader of the Majority Party is saying is right. The problem is that the Bill itself has a problem and we need to look at a way of rectifying what is in the Bill so that we can come up with what is in the print out.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Member for Ndhiwa.

Hon. Martin Owino (Ndhiwa, ODM): The Bill may be faulty but we are addressing the parent Act. What we are saying is that this consultation is wrong. So, we give the council the power to consult from time to time.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): There is a Member who is very agitated.

Hon. Member: There are two things here. Hon. Otiende Amollo was raising an issue on the Bill saying it is defective. Majority of us are referring to the Bill. The Chair of the Committee has made it very clear that we are making reference to the parent Act. These are just amendments. We should make these things straight because that is where the confusion is coming from. Otherwise, we support.

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

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

*(Provisions relating to the Nurses Act, Cap.257,
Section 11(5) as amended agreed to)*

Nurses Act, Cap.257, Section 12

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

THAT, the Schedule to the Bill be amended -

(1) By deleting the proposed amendment to section 12 and substituting therefor the following new amendment—

s. 12 Delete and substitute therefor the following new section—

Registers to be kept.

12. (1) The Registrar shall compile and keep a register of nurses and midwives in the prescribed form.

(2) Every person eligible to be registered as a nurse or midwife may apply in the prescribed form to the Registrar for registration and every such application shall be accompanied by the prescribed fee.

(3) Subject to payment of a retention fee, there shall be entered and maintained in the appropriate register the name and address of every person entitled to be registered under this Act together with his or her professional qualifications and such other particulars as may be prescribed by the Council.

(4) Every person registered under this Act who has obtained a higher degree or qualification other than the qualification in respect of which he has been registered, shall be entitled to have that higher degree or additional qualification inserted in the register in substitution for or in addition to the qualification previously registered, upon paying the prescribed fee.

The amendment seeks to introduce a new subsection to provide for the payment of retention fee for the purposes of maintenance of names in the register.

(Question of the amendment proposed)

Hon. (Ms.) Odhiambo- Mabona (Suba North, ODM): My only worry is that sometimes when we are doing legislation we need to be clear. Sometimes what we intend is very different from what the actual legislative process is communicating. So, my worry is that where we are not clear, we might be going contrary to our own intentions. That is my only worry. Having said that, can we please report progress?

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Hon. Nyikal.

Hon. (Dr.) James Nyikal (Seme, ODM): What we want to do is right. We want to say that it is not the Minister but the council. That is what we intend to do. However, this Bill as it is, is not addressing that. I would have thought that if you accept that Chair, then what we would do is to find a technical way of deleting this. Find a way of doing the right thing.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Hon. Members, this is a House of debate. Order, Leader of the Majority Party! Allow me to put this section to vote.

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

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

(Provisions relating to the Nurses Act Cap.257, Section 12 as amended agreed to)

(Section 14(1) agreed to)

(Section 16(1) agreed to)

Nurses Act, Cap.257, Section 17

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Hon. Sabina Chege.

Hon. (Ms.) Sabina Chege (Murang'a CWR, JP): Hon. Temporary Deputy Chairlady, I was just trying to make my senior understand that what he was proposing was deletion and we have already deleted and replaced with a new amendment. It now conforms to the original Act.

Hon. Temporary Deputy Chairlady, I beg to move:

THAT, the Schedule to the Bill be amended –

(m) by deleting the proposed amendments to section 17 and substituting therefor the following new proposed amendments—

s. 17 Delete and substitute therefor the following new section:

Private practice.

17. (1) A person may engage in private practice as a nurse or a midwife if that person is—

- (a) a citizen of Kenya or a foreign national;
- (b) registered and licensed to practice in Kenya;
- (c) a holder of a valid practicing license issued under this Act;
- (d) of professional good standing, as may be prescribed by the Council;
- (e) has paid the fee as prescribed by the Council;
- (f) meets such other requirements as may be prescribed by the Council; and
- (g) a holder of such other nursing or midwifery qualification as may be prescribed.

(2) A person is not qualified to operate a clinic in community nursing or midwifery services as a private practitioner unless such person has at least three years post qualification experience in community nursing or midwifery and is in active practice in Kenya.

(3) Despite the provisions of sub sections (1) and (2), a person is not qualified to operate a nursing home, maternity home or a nursing and maternity home as a private practitioner unless such person has been in active practice for at least five years in Kenya.

(4) If a license is due for renewal and the licensee has not made an application within the thirty days from the date of expiry, the licensee shall not engage in private practice until a renewal license is issued.

(5) An application to engage in private practice or renewal shall be made to the Council in the prescribed form, accompanied with the prescribed fee.

(6) A person who has made an application to engage in private practice shall be issued with such license by the Council upon satisfying such requirements for issuance with a licence under this Act.

(7) A practising certificate shall be valid from the date on which it is issued and shall expire on the thirtieth day of December of every year unless its holder ceases to be a registered person under this Act.

(8) A person who contravenes the provisions of this section commits an offence and is liable upon conviction, to a fine not exceeding one million shillings or to imprisonment for a term not exceeding one year, or both.

The amendment seeks to correct grammatical errors in the Bill. It also seeks to provide with clarity that only a licensee who fails to apply for a new licence after expiry of their licence shall not be eligible to practice. A licensee who duly applies for a new licence but whose licence is not renewed within 30 days shall not be prohibited from practising, if they have already applied.

(Question of the amendment proposed)

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

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

(Provisions relating to the Nurses Act, Cap.257 Section 17 as amended agreed to)

(Section 19(2) agreed to)

(Section 26 agreed to)

(Section 27 agreed to)

(New Section 27A agreed to)

(New Section 27B agreed to)

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

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): No, we are aware of the time. We are aware of the extension.

PROGRESS REPORTED

THE HEALTH LAWS (AMENDMENT) BILL

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Let us have the Mover.

Hon. Aden Duale (Garissa Township, JP): Hon. Temporary Deputy Chairlady, Hon. Millie Odhiambo came late and so she needs to... Whether you are a lawyer, an economist or a kindergarten teacher, you are a Member of Parliament.

Hon. Temporary Deputy Chairlady, protect me from this lady: if she goes out she will deal with my wife, but here I can deal with her.

Hon. (Ms.) Odhiambo-Mabona (Suba North, ODM): I can deal with him.

The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu): Hon. Leader of the Majority Party, you know Hon. Millie can deal with you. Please carry on.

Hon. Aden Duale (Garissa Township, JP): Hon. Temporary Deputy Chairlady, I beg to move that the Committee does Report to the House its consideration of the Health Laws (Amendment) Bill, National Assembly Bill No.14 of 2018, up to provisions relating to Nurses Act Cap. 257 and its approval thereof with amendments and seek leave to sit again.

(Question proposed)

(Question put and agreed to)

(The House resumed)

*[The Temporary Deputy Speaker
(Hon. Christopher Omulele) in the Chair]*

Hon. (Ms.) Jessica Mbalu (Kibwezi East, WDM-K): Hon. Temporary Deputy Speaker, I beg to report that the Committee of the whole House has considered the Health Laws (Amendment) Bill, National Assembly Bill No.14 of 2018 up to provisions relating to the Nurses Act Cap. 257 and approved the same with amendments and seek leave to sit again.

The Temporary Deputy Speaker (Hon. Christopher Omulele): Very well, Mover.

Hon. Aden Duale (Garissa Township, JP): Hon. Temporary Deputy Speaker, I beg to report that the Committee of the whole House has considered the Health Laws (Amendment) Bill, National Assembly Bill No.14 of 2018 up to provisions relating to the Nurses Act Cap. 257 and approved the same with amendments and seek leave to sit again. You know we have been here the whole day.

The Temporary Deputy Speaker (Hon. Christopher Omulele): Order, Members.

(Question proposed)

(Question put and agreed to)

ADJOURNMENT

The Temporary Deputy Speaker (Hon. Christopher Omulele): Hon. Members, the time being 7.09 p.m. This House stands adjourned until Thursday, 25th October 2018, at 2.30 p.m.

The House rose at 7.09 p.m.