

SPECIAL ISSUE

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SENATE BILLS, 2020

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THE HEALTH (AMENDMENT) BILL, 2020

A Bill for

AN ACT of Parliament to amend the Health Act, to enhance the functions of the Kenya Health Human Resource Advisory Council; and for connected purposes.

ENACTED by the Parliament of Kenya, as follows—

1. This Act may be cited as the Health (Amendment) Act, 2020. Short title.

2. Section 30 of the Health Act, hereinafter referred to as the principal Act, is amended in subsection (1) by— Amendment of section 30 of 21 of 2017.

- (a) deleting paragraph (e);
- (b) deleting paragraph (d); and
- (c) deleting the word “one” appearing immediately before the words “person nominated” in paragraph (h) and substituting therefore the word “three”.

3. The principal Act is amended by deleting section 31 and substituting therefor the following new section- Amendment of section 31 of No. 21 of 2017.

Functions
of the
Council.

31. (1) The Council shall—

- (a) review and make recommendations to the Cabinet Secretary on policy and uniform norms and standards for the—
 - (i) posting of interns to National Government and County Government health facilities;
 - (ii) inter county transfer of

- healthcare professionals;
 - (iii) transfer of healthcare professionals from one level of government to another;
 - (iv) welfare and the scheme of service for health professionals;
 - (v) management and rotation of specialists; and
 - (vi) maintenance of a master register for all health practitioners in the counties;
- (b) undertake an audit of the health care workers in the national health system and advise the National Government and the respective County Governments of the gaps in recruitment, employment and deployment of registered health care workers;
- (c) advise the National Government and the respective County Governments on promotion of health care workers;

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- (d) review and make recommendations for inter-county transfer of healthcare professionals;
 - (e) review and make recommendations for inter-governmental transfer of healthcare professionals;
 - (f) review and make recommendations for training of healthcare professionals; and
 - (g) review and make recommendations on remuneration of healthcare professionals.

MEMORANDUM OF OBJECTS AND REASONS**Statement of the Objects and Reasons for the Bill**

The Bill seeks to enhance the functions of the Kenya Health Human Resource Advisory Council in order to empower it to advise the National and the respective county governments on health human resources. The mandate of the Council shall include: advising the National government and the respective county governments on recruitment, employment and deployment of health human resources; considering and recommending applications for inter-county and intergovernmental transfers; reviewing and making recommendations on training and remuneration of health human resources.

Due to the enhanced responsibilities of the Council, the Bill also proposes to increase the representation of the County Public Service Boards in the Council. This is because the counties are expected to employ the bulk of the health human resources and decisions of the Board are likely to greatly influence the functions of county governments in regard to employment of health human resources.

The Council's enhanced mandate is expected to improve health service delivery in devolved units through the promotion of cooperation between the two levels of government in the critical area of Human Resources for Health.

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

This Bill does not delegate legislative powers nor does it limit fundamental rights and freedoms.

Statement on how the Bill concerns county governments

Health services are a devolved under Part 2 of the Fourth Schedule to the Constitution. The counties are mandated to manage health services from Level 1 to Level 5 of the tier of healthcare and employ health human resources to facilitate access to health in those health facilities.

This Bill seeks to enhance the scope of the functions of the Council. The proposed enhanced functions of the Council will affect the dual functions of the counties to manage health facilities and hire human resources for health.

The Bill concerns counties in terms of Article 110 (1) (a) of the Constitution since it relates to provision of health services by the county governments.

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

This Bill is not a money Bill within the meaning of Article 114 of the Constitution.

Dated the 9th June, 2020.

ABDULLAHI IBRAHIM ALI,
Senator.