



Kenya Medical Association

NATIONAL EXECUTIVE

KMA CENTRE, CHYULU ROAD, P.O. BOX 48502 – 00100 GPO, NAIROBI - KENYA

Mobile: +254 722 275 695

Email: nec@kma.co.ke

Website: www.kma.co.ke

8th March 2021

**The Clerk, National Assembly
Parliament Buildings
Nairobi**

RE: Kenya Medical Association Memorandum on The Health Laws (Amendment) Bill 2021

The Kenya Medical Association (KMA) was established in 1968 with the twin mandate of Championing for the Welfare of Doctors and advocating for Quality Health care for all people in Kenya. Pursuant to these mandates the Association engages with legislators and policy makers at all levels of government in order to secure improvements to the welfare of our members and the healthcare system in this country.

KMA is in receipt of the Health Laws (Amendment) Bill (National Assembly Bill 2021 received in the National Assembly on 23rd February 2021. KMA firmly rejects the proposed Health Laws Amendment Bill 2021 that seeks to remove Kenya Medical Association from all key health regulatory bodies in the health sector.

KMA is an established Professional Association that should not be excluded in Board of these statutory institutions. The precedence on regulation of professionals is very clear. This is evident from the laws governing regulation of other professionals such as Lawyers (LSK), Architects, Engineers, Accountants and others. The membership of regulatory bodies is composed of industry leaders who are able to provide oversight of their professions.

The role of established Professional Associations of the particular professions is underpinned by their participation in boards that govern these professions. Health should not be an exception.

KMA takes note that the health regulatory bodies affected in proposed memorandum are unique in that they provide professional regulation unlike other SAGAs. The mechanisms of professional regulation include the development of standards for professionals, the promulgation of codes of professional conduct and ethics, the adoption of credentialing mechanisms and the implementation of disciplinary procedures.

The rationale given by the proposers of the bill in amendment of composition of the bill as aligning to Mwongozo Code of Governance is flawed as the regulatory councils are not state corporations or parastatals. Mwongozo is a guide for boards but it does not prescribe the exact individuals to sit

in boards. Professional regulatory boards and councils are not the same as boards of management of parastatals and other Government agencies. They have roles that go beyond the management of an institution, and into setting professional and ethical standards of practice, and ensuring that recognized professionals adhere to these standards or lose their license to practice.

The proposers of the bill have inserted the PS, Health, PS Finance and Attorney General in all the Health Regulatory Boards. Additionally, the bill gives vague guidelines of organizations and qualifications of people the CS of Health will populate these boards with. It expressly breaches the principle of *Good Governance* in the management of State Corporations for public officers to create a statutory framework that confers the Cabinet Secretary with massive discretion to appoint members of the board of a regulatory institution without the checks and balances that Article 10 of the Constitution provide.

The Attorney General position in all regulatory councils presents a conflict of interest in cases where Government facility is being brought to task on regulatory matters. As such, regulatory bodies should be independent. The Director General of Health is the most suitable technical person who should be in these boards.

The removal of specific professional organizations in board leadership is dangerous.

It leaves the selection process fraught with ambiguity, a situation that is the complete opposite of the proposed spirit to the changes. In health, the danger of not being explicit opens up the window of important regulatory functions to all and sundry, a situation that will place the health of a nation in jeopardy.

The Kenya Medical Association thus proposes that the Health Laws Amendment Bill 2021 be shelved all together and that the regulatory bodies remain as they are and have proper stakeholder engagement prior to making policy amendments. We are available to make submissions on the specific changes.

Signed:



Dr. Were Onyino
President

Cc: Chair, Parliamentary Health Committee
Senate Health Committee
The Attorney General