



**MATRIX ON RECOMMENDATION BY NEPHAK & KELIN ON THE HEALTH BILL 2015**

<b>HEALTH BILL 2015</b>		
<b>Section</b>	<b>Marginal Note</b>	<b>Recommendation</b>
<b>PART 1: PRELIMINARY PROVISIONS</b>		
	Preamble	We recommend that the preamble in the CIC draft is adopted. It is a better draft.
1	Short Title	No comment.
2	Interpretation section	We recommend that Section 2 of the CIC Bill that has more comprehensive provisions be adopted. We further recommend that the World Health Organisation definition on abortion is adopted. The definition reads as “Abortion is the premature expulsion of the products of conception from the uterus before the foetus is viable. Abortion can be spontaneous or induced”.
3	Objects of the act	We suggest you adopt the provision of Sections 3(b) and (c) of the CIC Draft which spell out clear objectives that are well drafted. We further recommend that the bill adopts Section 4 of the CIC draft that captures the National Values and principles in line with Articles 10(2) b, c and 201 and 232 of the Constitution of Kenya 2010.
4	Responsibility for health	We recommend that this section should be deleted because the functions of the National and County Governments have been well captured in Sections 15 and 16 of the CIC draft.
		We recommend that Section 5 of the CIC draft that protects vulnerable groups is included in the new bill. This section is critical to capture groups that would ordinarily be left behind in provision of health services like persons with disability.

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<b>PART II: HEALTH RIGHTS AND DUTIES</b>		
6	Reproductive health	We recommend that the new bill adopts the wording of Section 8 of the CIC bill and further recommend Clause 8 (c) ought to be re-worded to emphasize that every woman must not only have the right to be informed of the contraceptive methods available but must also have <b>a right to have access to safe, effective, affordable and acceptable methods of family planning of their choice</b>
7	Emergency treatment	We recommend that the new bill adopts Section 7 of the CIC bill that better address the issues of emergency medical treatment. It creates an obligation to every health provider to give emergency care. This obligation had not been captured in the Cabinet approved bill.
8	Health information	We recommend the bill adopts the wording of sections 9, 10 and 11 of the CIC draft that extensively cover the issues relating to access to information. We further recommend that the Bill adopts Section 9 of the CIC draft that addresses access to health information that is relevant to the public. This is missing in the draft approved by Cabinet. These clauses will help in actualizing Article 35 of the Constitution which is critical in provision of Health services.
9	Consent	We recommend that Section 12 of the CIC draft is adopted and emphasis is placed on having clear provisions on the provision of consent by children and mature minors. Reference can be made to Section 15 of the HIV & AIDS Prevention and Control Act 2006 that allows children to consent in special circumstances.
10	Information dissemination	We recommend that Section 10 of the CIC draft is adopted as it extensively addresses the issues of right to information.
11	Confidentiality	We recommend that Section 13 of the CIC draft is adopted as it extensively addresses the issues of right to privacy in line with Article 31 of the Constitution.

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12	Health care providers	We recommend the adoption of Section 14 of the CIC Draft. This sections notes the rights of health care workers and makes provisions to ensure protection of health care workers in the course of duty. This is in line with Article 41 of the Constitution.
13	Duties of users	We recommend that this section be deleted as it has been adopted in Section 11 of the CIC draft.
14	Complaints	We recommend that this section is deleted because the issue has been addressed at Part V of the CIC draft that establishes a Health Tribunal to deal with all forms of medical complaints.
15	Duties of national government	We recommend that the committee adopts Section 15 of the CIC draft that clearly captures the duties of the National Government. We further recommend the bill adopts sections 16, 17 and 18 of the CIC draft that captures duties of County Governments, inter-county collaboration and partnerships with non-state actors. This in line with the Fourth Schedule of the Constitution. The current draft does not adequately address which has been an area of contention.
<b>PART III OFFICE OF DIRECTOR GENERAL We recommend that the Part III of the CIC draft is adopted as is.</b>		
19	County health systems	We recommend that this section is deleted because it has been captured under Section 16 of the CIC Bill and in the provisions of the County Government Act.
20	Duties of county executive department for health	We recommend that this section is deleted because it has been captured under Section 16 of the CIC Bill and in the provisions of the County Government Act. Section 16 of the CIC draft address the duties of the County governments as they relate to health.
21	Coordination	We recommend that this section is deleted because it has been captured under Section 17 of the CIC Bill and the County Government Act. Section 17 address the issue of partnership with non-state actors in the health sector.
22	Public health facilities	We recommend that this section is deleted because it has already been captured in Section 2 of the CIC Bill

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23	Public private partnership	We recommend that this section is deleted because it has already been captured in Section 18 of the CIC Bill that deals with how the National and County government can partner with other non-state actors including the private sector.
24	Devolution	We recommend that this section is deleted because it has already been captured in Section 17 of the CIC Bill that allows for both the National and County governments to collaborate on health issues.
25	Retention of service provision	We recommend that this section is deleted because it has already been captured in Sections 15 and 16 of the CIC Bill that deals with duties and functions of the National County governments.
26	Classification levels of health care	We recommend that this section should be deleted and a provision is inserted in the Health Bill that mandate the Cabinet secretary to make regulations for the classification and roles of the institutions. This should of course be done in a consultative manner
<b>PART VI HEALTH PROFESSIONALS OVERSIGHT AUTHORITY</b>		
28	Composition of the authority	We recommend that the number of members should be reduced and the law should give authority to non-state actors to nominate members
29	Funds of the authority	We recommend that Section 26 of the CIC draft is adopted.
30	Functions of the authority	We recommend that Section 23 of the CIC draft is adopted as it extensively spells out the function of the authority.
31	Relationship with other regulatory bodies	We recommend that this sections is deleted because it is addressed in Sections 23 and 25 of the CIC Bill. We further recommend that sections 24- 29 of the CIC bill are adopted.

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<p><b>PART VI REGULATION OF HEALTH PRODUCTS AND HEALTH TECHNOLOGY</b></p> <p>We recommend that this entire chapter is adopted, based on the provision in the CIC draft. We place further emphasis on the issue of procurement and recommend that Section 36 of the CIC bill should be adopted but taking into account any changes relating to the role of Kenya Medical Supplies Agency.</p>		
<p><b>PART VI: PROMOTION AND ADVANCEMENT OF PUBLIC AND ENVIRONMENTAL HEALTH -</b> We recommend that this Part is deleted because the CIC bill has already captured all the issues in Sections 15, 16 and 20. It would thus be irrelevant to have the chapter.</p>		
<p><b>PART VII: MENTAL HEALTH -</b> We recommend that a specific Act of Parliament is developed to adequately address the issue of Mental Health as they cannot be adequately captured in the Health Bill.</p>		
<p><b>PART VIII- TRADITIONAL AND ALTERNATIVE MEDICINE -</b> We recommend that a specific Act of Parliament is developed to adequately address the issue of Traditional &amp; Alternative Medicine. We also note that there are ongoing consultation on the Traditional Health Practitioners Bill 2014.</p>		
<p><b>PART IX: HUMAN ORGANS, HUMAN BLOOD, BLOOD PRODUCTS, OTHER TISSUES AND GAMETES.</b></p>		
<p>48 49 50 51 52 53</p>	<p>Human organs and transplantation and cloning Making of Wills Donation purposes Revocation Post mortem Kenya National Blood Service</p>	<p>We recommend sections 39 – 45 of the CIC draft are adopted as they adequately address the issues relating to human organs, human blood, blood products and other tissues and gametes. We further note that the issue of Making wills is not suitable for the health bill and should be left to other laws like the Succession Act.</p>
<p><b>PART X HEALTH FINANCING</b></p> <p>We recommend that the provisions in Chapter VIII of the CIC Bill are adopted. With emphasis that both National and County Governments are supposed to fundraise for resources for health locally, regionally and internationally.</p>		

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<b>PART XI THE PRIVATE SECTOR PARTICIPATION</b>		
<p>We recommend that this section is deleted because it is catered for under Section 16 and 17 of the CIC draft on partnerships with non-state actors and between counties and the national government.</p>		
<b>PART XII PROMOTION AND CONDUCT OF RESEARCH FOR HEALTH</b>		
<p>We recommend that the entire Part X of the CIC draft is adopted. We however need to emphasis Sections 60 &amp; 61 of the draft CIC that has clear provisions on the issues of consent to research particularly research involving minors. Section 63 is equally as it creates offences where on does not comply with research requirements.</p>		
<b>PART XIII E-HEALTH We recommend that the adoption of PART IX HEALTH INFORMATION SYSTEMS IN THE CIC Draft.</b>		
<p>We note Section 55 of the CIC Draft gives the cabinet secretary the mandate to make policies and regulations instead of legislation dealing with all the issues on health information including privacy. We agree with this and are of the view that issues of health information systems can be better articulated in policies and regulations as opposed to statutes.</p>		
<b>PART XIV INTER DEPARTMENTAL COLLABORATION –</b>		
<p>We recommend that this entire chapter is deleted as it has been addressed in Sections 15, 16 17, 20 (C) and 23 (y) of the CIC draft Bill.</p>		