



REPUBLIC OF ZAMBIA

**REPORT
OF THE
COMMITTEE ON HEALTH, COMMUNITY DEVELOPMENT AND SOCIAL
SERVICES
ON THE
THE HEALTH PROFESSIONS BILL, N.A.B. NO. 11 OF 2024
FOR THE
FOURTH SESSION OF THE THIRTEENTH NATIONAL ASSEMBLY**

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FOREWORD

Honourable Madam Speaker, the Committee on Health, Community Development and Social Services, has the honour to present its Report on the consideration of the Health Professions Bill, N.A.B. No. 11 of 2024, for the Fourth Session of the Thirteenth National Assembly. The Committee is mandated to consider any Bills that may be referred to it by the House, as per Standing Order 113 (1) and 210(j) of the National Assembly Standing Orders, 2024.

In order to acquaint itself with the ramifications of the Bill, the Committee sought both written and oral submissions from different stakeholders, the list of which is at Appendix II. The Report highlights a summary of submissions from stakeholders and the observations and recommendations made by the Committee.

The Committee is grateful to the stakeholders who tendered both written and oral submissions. The Committee is also thankful to Madam Speaker, for affording it the opportunity to scrutinise the Health Professions Bill, N.A.B. No. 11 of 2024. Further, appreciation is extended to the Clerk of the National Assembly for the support and guidance rendered throughout the Committee's deliberations.



Dr Christopher K Kalila, MP
CHAIRPERSON

November, 2024
LUSAKA

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1.0 COMPOSITION OF THE COMMITTEE

The Committee consisted of Dr Christopher K Kalila, MP (Chairperson); Mrs Marjorie Nakaponda, MP (Vice Chairperson); Mr Paul Chala, MP; Mr Alex Katakwe, MP; Mr Joseph S Munsanje, MP; Mr Masautso Tembo, MP; Mr Leevan Chibombwe, MP; Mr Monty Chinkuli, MP; Mr Heartson Mabeta, MP; and Mr Miles Sampa, MP.

2.0 BACKGROUND

The *Health Professions Act, No. 24 of 2009* was enacted to safeguard the quality of healthcare services in Zambia by regulating and monitoring the professional conduct of health practitioners, except nurses and midwives. The Act also licensed health facilities, and training institutions that met its standards. However, with the changes over time, the Act could not adequately support the legal framework leading to weak regulation of the practice and profession. This was compounded by the lack of internationally comparable standards for admitting health professionals by the Health Professions Council of Zambia (the Council). *The Health Professions Act, No. 24 of 2009* also lacked an effective enforcement mechanism such as an inspectorate to ensure compliance with its provisions.

In view of the identified gaps and the evolving nature of the health sector, it became necessary to repeal and replace the Act. The Council, in consultation with relevant stakeholders reviewed the Act, whose proposals culminated into the Health Professions Bill, N.A.B. No. 11 of 2024. As a result of this, the Bill was anticipated to strengthen the legal framework and to address the identified concerns. Further, the Bill sought to enhance the competencies of health practitioners, and the provision of quality health care services in the country.

3.0 OBJECTS OF THE BILL

The objects of the Bill were to –

- (a) continue the existence of the Health Professions Council of Zambia and redefine its functions;
- (b) reconstitute the Board of the Health Professions Council of Zambia and re-define its functions;
- (c) regulate health professionals, health facilities, healthcare services, and internship sites;
- (d) provide for the administration of licensure examinations;
- (e) approve curriculum for health learning programmes for purposes of accreditation by the Higher Education Authority;
- (f) provide for the approval of internship sites for health practitioners;
- (g) repeal and replace the *Health Professions Act, 2009*; and
- (h) provide for matters connected with, or incidental to, the foregoing.

4.0 SALIENT PROVISIONS OF THE BILL

The salient provisions of the Bill were set out as listed hereunder.

PART I PRELIMINARY PROVISIONS

Clause 2 – Interpretation

The clause provided for the definitions of key words and phrases used in the Bill in order to make the law easier to be understood by the citizens and those tasked to implement it.

PART II THE HEALTH PROFESSIONS COUNCIL OF ZAMBIA

Clause 5 – Constitution of Board

The clause constituted the Board of the Council and set out the composition of the Council and the grounds for disqualification of a person for appointment as a member of the Council which included, among others, being an undischarged bankrupt.

PART III REGISTRATION OF HEALTH PRACTITIONERS

Clause 8 - Prohibition of practising without registration

The clause prohibited a person who was not registered as a health practitioner with the Council from practising as a health practitioner and imposed a penalty on a person who contravened the provision.

Clause 14 - Determination of application for registration as health practitioner

The clause set out the requirements that an applicant under clauses 9, 10, 11, 12 and 13 must meet to be registered as a health practitioner which included, among others, the applicant possessing knowledge, training and experience as may be prescribed.

Clause 15 - Disqualification from registration as health practitioner

The clause set out the grounds on which a person may be disqualified from registration as a health practitioner which included, among others, conviction of an offence involving fraud or dishonesty under this Act or any other written law in the preceding five years prior to the registration being legally disqualified.

Clause 17 - Suspension or cancellation of registration

The clause set out the grounds on which the Council may suspend or cancel the registration of a holder of a certificate of registration which included, among others, reasonable grounds to believe that the registration was obtained by fraud, misrepresentation or concealment of a material fact.

Clause 19 - Prohibition of practice without practising certificate

The clause prohibited a person from practising as a health practitioner without a practising certificate issued by the Council. The clause further prohibited a person from offering

employment to a person who did not hold a valid practising certificate issued by the Council and imposed a penalty on a person who contravened the provision.

Clause 23 - Suspension or cancellation of practising certificate

The clause set out the grounds on which the Council may suspend or cancel the registration of a holder of a practising certificate which included, among others, where the holder of a practising certificate obtained the practising certificate through fraud, misrepresentation or concealment of a material fact, was an undischarged bankrupt or was legally disqualified

**PART IV
LICENSURE EXAMINATIONS**

Clause 29 - Administration of licensure examination

The clause empowered the Council to administer a licensure examination to a person who had applied for provisional registration before the issuance of a provisional certificate of registration to that person.

Clause 30 - Application for licensure examination

The clause mandated a person who intended to sit for a licensure examination to apply to the Council, at least thirty days before the date of the licensure examinations.

**PART IX
DISCIPLINARY MATTERS**

Clause 69 - Reference of matters to Professional Conduct Committee

The clause mandated the Council to refer a matter for investigation to the Professional Conduct Committee before it was referred to the Disciplinary Committee.

Clause 72 - Sanctions for professional misconduct by Professional Conduct Committee

The clause empowered the Professional Conduct Committee where the Professional Conduct Committee determined that the matter would not be referred to the Disciplinary Committee but found a practitioner guilty of professional misconduct to impose some sanctions which could include, among others, cautioning and suspension of the practising certificate of a health practitioner for a period not exceeding six months.

Clause 74 - Functions of Disciplinary Committee

The clause set out the functions of the Disciplinary Committee which was to hear and determine any complaint referred to it by the Professional Conduct Committee against a health practitioner or a disciplinary action initiated against the health practitioner by the Council.

5.0 SUBMISSIONS AND CONCERNS OF STAKEHOLDERS

Stakeholders submitted that the Bill was generally progressive as it sought to strengthen the regulation of health professionals and health care services in Zambia. However, stakeholders noted that despite the progressive provisions, the Bill also contained some concerning clauses which if passed without adjustments, would potentially defeat its objectives. The concerns are espoused below:

5.1 **Clause 2: Definitions of health facility; health profession; and hospital**

Stakeholders noted that under clause 2, the definition of “health facility” excluded retail, community and hospital pharmacies. In view of this, stakeholders submitted that the addition of the proposed words would remove the ambiguity with regard to health services provided by pharmacies.

Stakeholders urged the Committee to ensure the Bill was not in conflict with *the Health Professions Act, No. 24 of 2009* and *the Medicines and Allied Substances, Act No. 3 of 2013*, under which registration and regulation of pharmacies fell. The stakeholders feared that, if passed, the Bill would also entail exempting hospital pharmacies from being licensed.

The stakeholders also noted that, in defining “health profession”, the Bill should have expanded the term to include a list of cadres comprising medical doctors, clinicians, dentists, physiotherapists and biomedical scientists.

Stakeholders also noted that the term “hospital” needed to be redefined to unlock the responsibility of supervising a hospital by medical doctors alone. They observed that the definition segregated other health professions from superintending over the affairs of a hospital. Instead of the restrictive reference, stakeholders suggested that, the definition should be guided by function and not supervision.

5.2 **Clause 5: Constitution of the Board**

The Committee was informed that clause 5 reduced the Board's size from nineteen to nine members, resulting in the exclusion of certain professional bodies from its composition. In light of these limitations, stakeholders raised the following concerns:

5.3 **Clause 5 (1) (a): a representative for the Ministry responsible for health**

Stakeholders noted that while the *Health Professions Act, No. 24 of 2009* provided for the Permanent Secretary as the representative of the Ministry of Health, the Bill in clause 5 (1) (a) proposed a more general representative, suggesting that the Minister had the latitude to appoint any official to represent the Ministry of Health.

The stakeholders emphasised the importance of ensuring high-level participation to provide effective policy direction. They noted that this could best be achieved by retaining the Permanent Secretary, who, as specified in Clause 6 (2) (f), was well

positioned to advise the Board and Minister on matters relating to the health profession.

5.4 Clause (5) (1) (c) and (g): representatives of the Nursing and Midwifery Council of Zambia; and the Zambia Institute of Chartered Accountants

While, the stakeholders acknowledged the need to incorporate diverse principles for strong corporate governance into the operations of the Council, listing non-members on the Board was a source of concern. Stakeholders maintained that their role on the Board was essentially to provide guidance in strategic decision-making and policy guidance to the Council. The stakeholders disputed the inclusion of representatives from the Nursing and Midwifery Council of Zambia and the Zambia Institute of Chartered Accountants as specified in clause (5) (1) (c) and (g). The stakeholders further argued that the membership of the Council comprised a diverse range of health professionals who were capable of representing their cadres.

5.5 Clause 5 (e): a dean of a school of medicine

The stakeholders challenged the inclusion of a dean from a school of medicine, noting that this provision was practical when only one such position existed in the country. They noted that, professional training facilities had since expanded, with multiple public and private higher learning institutions now in place. Accordingly, they proposed broadening the membership by amending clause 5 (e) to read: "*dean of a faculty training health professionals at a recognised higher learning institution.*" The stakeholders expressed the view that this change would acknowledge the training roles of a wider range of health professionals and allow for the inclusion of deans from various health-related faculties, not just medicine.

5.6 Clause 5 (f): a representative of the Churches Health Association of Zambia

Stakeholders proposed replacing the Churches Health Association of Zambia (CHAZ) to address concerns that its specific inclusion limited participation opportunities for other Civil Society Organisations (CSOs) interested in the representative role. They suggested that broadening representation through a general umbrella body would allow other CSOs concerned with matters relating to health to be part of the Board.

5.7 Clause 5 (h): two members of the public who have distinguished themselves in the service of the Health Profession

Stakeholders further proposed to amend Clause 5 (h) to replace the wording, "*two members of the public who have distinguished themselves in the service of the Health Profession*" with "*two members of the Private Health Sector who have distinguished themselves in the service of the health profession*". They argued that such a consideration would ensure the direct representation of the private health sector on the Board.

5.8 Clause 14(c): Determination of application for registration as health Practitioner

Stakeholders noted that clause 14(c) only recognised citizens or residents in the Republic when considering an application for registration as a health practitioner. In light of this, the stakeholders proposed to amend or delete the clause because one's citizenship or residence status should not be a requirement for registration as a health practitioner.

5.9 PART III Clause 23 (1) (b): Suspension or cancellation of practicing certificate

Stakeholders opposed the provision to suspend or cancel a practicing licence on account that the holder of a practising certificate is undischarged bankrupt. They dismissed this criteria believing that the bankruptcy status of a health practitioner did not directly affect the ability to practice. Stakeholders further suggested the deletion of the clause as there were adequate laws which addressed the issues of bankruptcy separately from the regulation of professions.

5.10 PART IV: Administration of licensure examinations

Stakeholders noted that Part IV would empower the Council to administer licensure examinations. While the provision was progressive, stakeholders expressed concerns on the Council's capacity to administer the exams considering that it did not have adequate personnel and infrastructure. They alleged that the Council's inability would lead to exam irregularities. In view of this, stakeholders proposed that the Bill should insert a provision to allow professional bodies to administer the exams on behalf of the Council.

Stakeholders also noted that Part IV was contrary to the principles of good governance because it allowed the Council to be a regulator as well as a provider of services that it regulated. In this regard, stakeholders proposed that the Council should focus on approving training standards, while assessment of the trainee should be done by respective professional bodies. Alternatively, stakeholders, proposed for the establishment of an independent body comprised of members of the various professional bodies to orient, prepare and examine trainees.

5.11 PART IX, Clause 72 (c) and (e): Sanctions for professional misconduct by Professional Conduct Committee

Stakeholders opposed the clause as it permitted the Professional Conduct Committee to mete out punitive sanctions, which otherwise would be the preserve of the Disciplinary Committee. The stakeholders proposed that the cases deemed to be serious by the Professional Conduct Committee should be referred to Disciplinary Committee for a formal determination and sanctioning.

GENERAL CONCERNS

5.12 Typographical errors

In addition to the substantial concerns above, the stakeholders pointed out typographical errors as listed hereunder:

- 5.12.1 the word “bachelor’s” to read “bachelor’s” in Clause 7(2)(b);
- 5.12.2 realign the marginal notes from Clause 61 to clause 64; and
- 5.12.3 the latter part of the Bill shifted from reference of the word “professions” to using “professionals”. The stakeholders, further noted that the latter word does not match the definition provided in the Bill, therefore, necessitating its removal.

6.0 COMMITTEE'S OBSERVATIONS AND RECOMMENDATIONS

The Committee notes that the majority of witnesses who appeared before it were in support of the Bill. The Committee also supports the Bill, however, in supporting the Bill, the Committee makes the observations and recommendations as set out below.

- 6.1 The Committee observes that the definitions and references under clause 2 need to be aligned with other statutes in order to avoid misinterpretation. In light of this, the Committee recommends that due consideration must be given to ensure the definitions are consistent with legal provisions of *the Medicines and Allied Substances, Act No. 3 of 2013* and are generally accepted by members of the Council.
- 6.2 The Committee observes that clause 14(c) restricts registration as a health practitioner to citizens or residents of the Republic. In agreement with stakeholders, the Committee recommends deleting this Clause to allow the Council to register health practitioners regardless of one's nationality.
- 6.3 The Committee observes that the composition of nine (9) Board members is not inclusive and adequate to represent the interests of health professions. Therefore, the Committee recommends that special consideration must be given to increase Board members to at least eleven (11). Further, the Committee recommends for an inclusive Board to enhance broader representation of its members.
- 6.4 The Committee, in agreeing with the stakeholders, also observes that clause 23 (1) (b) attempts to prevent health practitioners from practicing when they are undischarged bankrupt. Therefore, the Committee recommends deletion of the clause to protect the licenses of health practitioners from being suspended or cancelled on account of bankruptcy.
- 6.5 The Committee observes that it is impulsive to enact Part IV of the Bill considering the alleged concerns on the capacity of the Council to conduct licensure exams. In light of this, the Committee recommends that, in the long run, an independent body must be established to conduct licensure exams, and in the interim, a recognised university must temporarily administer licensure exams in consultation with professional bodies.
- 6.6 The Committee observes that Clause 72 (c) and (e) is a loophole to unfairly punish innocent members. In view of this, the Committee recommends that for cases deemed to be serious by the Professional Conduct Committee they should be referred to the Disciplinary Committee for a formal determination and sanctioning.

7.0 CONCLUSION

The amendment of the Health Professions Bill, N.A.B. No. 11 of 2024 offers a crucial opportunity to enhance the regulation of health professions in Zambia. By expanding and strengthening the role of HPCZ, the Bill aims to improve the delivery of quality healthcare. However, concerns remain, particularly in the composition of the Board and licensure exam administration. In this regard, the Committee advises the Government to broaden the membership of the Board by including major stakeholders. The Committee, therefore, supports the Bill, subject to the aforementioned recommendations.



Dr Christopher K Kalila, MP
CHAIRPERSON

November, 2024
LUSAKA

APPENDIX I - NATIONAL ASSEMBLY OFFICIALS

Mrs Doreen N C Mukwanka, Director (Social Committees)
Mrs Chitalu K Mumba, Deputy Director (Social Committees)
Mr Darius Kunda, Senior Committee Clerk (SC1)
Mr Kelezo Lushako, Committee Clerk
Ms Catherine Chibuye, Administrative Assistant II
Mr Daniel Lupiya, Senior Committee Assistant
Mr Muyembi S Kantumoya, Committee Assistant
Ms Taona Chabinga, Committee Assistant

APPENDIX II–LIST OF WITNESSES

Ministry of Health
Ministry of Justice
Ministry of Livestock and Fisheries
Zambia Medical Association
Zambia Institute for Policy Analysis and Research
Churches Health Association of Zambia
Medicines Research and Access Platform
Pharmaceutical Society of Zambia
Health Professionals Council of Zambia
Healthcare Federation of Zambia
Clinical Officers Association of Zambia
Zambia Health Education and Communication Trust
Zambia Medicines Regulatory Authority
Levy Mwanawasa Hospital
Zambia AIDS Related Tuberculosis
University of Lusaka – School of Medicine
Zambia Law Development Commission
Ophthalmology Society of Zambia
Medical Licentiate Association of Zambia