COLLABORATIVE REVIEW OF THE NAKURU MATERNAL NEWBORN AND CHILD HEALTH BILL WITH THE NAKURU COUNTY COMMITTEE ON HEALTH SERVICES

HELD AT LAKE ELEMENTAITA COUNTRY LODGE

5th – 6th October 2018

WORKSHOP REPORT

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ABBREVIATIONS AND ACRONYMS

KELIN	Kenya Legal and Ethical Issues Network on HIV/AIDS
KMA	Kenya Medical Association
PARTNERS	KELIN & KMA
COMMITTEE MEMBER	Members of the Nakuru County Committee on Health Services
CEC	County Executive Committee Member on Health Services
CHMT	County Health Management Team
MNCH BILL	Maternal Newborn and Child Health Bill
SOA	Sexual Offences Act

EXECUTIVE SUMMARY

From 5th to 6th October 2018, the Kenya Legal and Ethical Issues Network on HIV and AIDS (KELIN) and the Kenya Medical Association (KMA) hosted a delegation of the Nakuru County Assembly's Committee on Health Services to jointly review the Nakuru Maternal Newborn and Child Health Bill, 2017 (hereinafter "MNCH Bill").

The key objectives of the workshop were::

1. To review and validate the Nakuru Maternal Newborn and Child Health Bill;

2. To develop draft moving notes to support the reintroduction of the Nakuru Maternal, Newborn and Child Health Bill to the Nakuru County Assembly; and

3. To map out and strategize on the engagement of the Nakuru County Assembly to support the Nakuru MNCH Bill.

In order to achieve its objectives, the workshop was divided into six sessions as summarized below:

In the first session, participants were taken through the key highlights and the legislative framework on reproductive health in Kenya. The facilitator detailed the specific provisions in the Constitution as well as the Health Act, which informed the maternal, newborn, and child health Bill. She further provided a comparative analysis of the Nakuru MNCH Bill vis a vis the Makueni and Kilifi MNCH Acts. Committee members were also taken through some of the potential areas of the Bill that were likely to be problematic and would, therefore, form part of the deliberations during the workshop.

In the second and third sessions, the Committee members were taken through the journey of the MNCH bill from 2016 to date. It was highlighted that the bill's initial conceptualization had been rejected by the then County Assembly. The drafting had been weak and the document had failed to receive critical participation from stakeholders including the medical fraternity in Nakuru.

In the fourth and fifth sessions, the Committee members were taken through the specific provisions of the MNCH Bill and had the opportunity to raise the areas of concern and discuss in depth their proposals in respect to the provisions. From these sessions, proposals were adopted in respect of the revision of the MNCH Bill.

In the sixth session, the Committee members and the Partners agreed on the way forward.

This is a report that provides a summary of the deliberations that took place during the two-day workshop.

DAY ONE: 5TH OCTOBER 2018

WELCOME AND INTRODUCTIONS: Dr Joy Mugambi, Assistant Secretary-General, KMA

Dr Joy Mugambi, the Assistant Secretary General, KMA and a co-convener of the meeting started off by welcoming participants to the workshop and thanked the participants for making time to attend the workshop. She noted that the workshop provided an important opportunity to discuss the key issues covered in the MNCH Bill and to agree on the way forward.

Participants then made self-introductions by indicating which organization they represented.

Lastly, she invited Hon. Njuguna Mwaura, the Chair of the Nakuru County Assembly's Committee on Health Services to give a few remarks.

OPENING REMARKS:

Hon. Njuguna Mwaura, Chair, Nakuru County Committee on Health Services

Hon. Njuguna Mwaura gave the opening remarks and indicated that the MNCH Bill was of key importance to the people of Nakuru County and it was the desire of the Committee to ensure that the MNCH Bill was tabled in the County Assembly as soon as possible.

He noted that it was, therefore, important to ensure that the Committee members were well informed of the contents of the Bill and that key issues are discussed and Committee members have adequate supporting information to defend any contentious issues that may arise when the Bill is tabled in the County Assembly.

He further appreciated the efforts by KELIN and KMA in respect to the MNCH Bill and assured them of the Committee's support in pushing for the passing of the MNCH Bill at the County Assembly.

Lastly, the Chair recorded the apologies of two committee members who were unable to attend the workshop but confirmed that the Committee indeed had a quorum for purposes of proceeding with the deliberations of the workshop.

SESSION ONE: KEY HIGHLIGHTS AND UPDATES ON THE LEGISLATIVE FRAMEWORK ON SRHR- TABITHA SAOYO DEPUTY EXECUTIVE DIRECTOR, KELIN

Summary

This session aimed at interrogating the following:

i. The key legislative framework on reproductive health in Kenya;

ii. A historical overview of the progress made in respect to the MNCH Bill;

iii. A comparative analysis of the Nakuru MNCH Bill against the Kilifi and Makueni Maternal Newborn Child Health Act; and

iv. The key potential problem areas in respect to the proposed MNCH Bill.

Ms Saoyo welcomed the participants to the workshop and informed the participants that this forum was the third effort in pushing for the MNCH Bill, with the initial efforts having been made in 2016 and 2017 when the MNCH Bill at the time was presented and negated at the County Assembly.

Ms Saoyo informed the participants that the current Bill that was the subject for discussion was the final draft presented to the county health management team (CHMT) in 2017.

She further unpacked the rationale for the current meeting as follows:

1. To review the bill because a lot of the committee members were not present during the initial discussions and a lot had changed in the Bill and therefore ensure that the committee members were speaking from one page.
2. Separate the teams and develop moving notes to assist the mover of the MNCH Bill in pushing for it. Statistically, Nakuru remains fourth in maternal health-related issues; and
3. To map out and strategize how to engage the larger county assembly because their support was very vital.

The key legislative framework on reproductive health in Kenya

Ms Saoyo highlighted on the key law governing reproductive health in Kenya to include several legislative pieces including:

i. The Constitution:
ii. Penal Code
iii. The Protection Against Domestic Violence Act;
iv. The Sexual Offences Act (SOA)
v. The HIV Prevention and Control Act;
vi. Victims Protection Act
vii. The Marriage Act
viii. Prohibition Against Female Genital Mutilation Act
ix. The Health Act 2017.

In addition, the following policies are also applicable to the governance of reproductive health:

i. National Reproductive Health Policy
ii. National Reproductive Health Strategy
iii. Adolescent Reproductive Health and Development Policy
iv. National Condom Policy and Strategy
v. Contraceptive Commodities Procurement Plan
vi. National Guidelines on the Management of Sexual Violence
vii. National Guidelines on Quality obstetric care

Ms Saoyo informed the participants that as a general rule, the laws made by the County government cannot purport to deviate from the spirit of the national legislation and must further be guided by the existing policies and strategies. She further gave a brief overview the various provisions of the Constitution and the Health Act in respect to the issue of Maternal Newborn and Child Health.

In respect to the Constitution, the following provisions were highlighted as they informed the MNCH Bill:

1. Article 43 (1) (a)-which was identified as the anchor provision in the regulation of reproductive health and the development of the MNCH Bill
2. Article 43 (2) makes provisions for emergency medical treatment and hence resonates with the proposed provisions of clause 27 of the MNCH Bill
3. Article 26 (4)- Addresses the issue of access to safe abortion
4. Article 27 (4)- Makes provisions on the right against discrimination on the basis of one's health status
5. Article 28 – the right of every person to be treated with dignity and have the said right respected and protected
6. Article 29 (c) – the right of every person not to be subjected to any form of violence whether from private or public sources
7. Article 53- addresses the best interests of the child

In respect to the Health Act, 2017, Ms Saoyo informed the participants that it gave the County Government certain powers in respect to health issues. More specifically the Participants noted as follows:

1. Section 5 (2)- provides for the right of every person to be treated with respect, dignity and have their privacy respected in accordance with the Constitution and the Act
2. Section 5(3)- Obligates the national and county government to ensure free and compulsory vaccination for children under the age of five as well as maternity care.
3. Section 5 (4)-Obliges the national government in consultation with the county government to provide funding for purposes of implementing the objects of section 5(3).
4. Section 6- Outlines the right to reproductive health.

Overall, the functions of the County within the Health Act, as outlined in section 20, include:

a) To ensure that appropriate, adequate and comprehensive information is disseminated on the health functions for which they are responsible

b) To establish and publish the procedure for the laying of complaints within public and private health care facilities

c) To work closely with the national government ministry responsible for health to develop health policies, laws and administrative procedures and programmes in consultation with health sector stakeholders and the public for the progressive realization of the highest attainable standards of health including reproductive health care and the right to emergency treatment;

d) To establish a county executive department responsible for health, answerable to the Governor and the County Assembly

e) To develop Laws on health information systems as per section 105 of the Act.

The Comparative Analysis of the Makueni and Kilifi MNCH Laws

Ms Saoyo informed the Participants that the Makueni and Kilifi County governments had passed their MNCH Laws and below is a summary of the key provisions for the respective laws.

MAKUENI MNCH ACT	KILIFI MNCH ACT
i. Termination of pregnancy allowed over a wide range of grounds ii. Conscientious objection allowed but providers mandated to do an effective referral iii. Minimum length of stay in hospital directed at 48hrs/96hrs iv. All children guaranteed right to free immunization and deworming as well as a free annual checkup for children under five years v. CEC mandated to facilitate training of formal and informal community midwives for better health outcomes vi. Regulates HIV testing and the consent of a child vii. Allows children to access contraceptives (except condoms) without the consent of their guardians provided the child is at risk of being exposed to sexual intercourse viii. Establishes a level 5 county referral with 5 ambulances ix. Allows for emergency treatment regardless of ability to pay	i. Allows trained Community Health Workers as part of persons offering maternal care ii. Restricts termination of pregnancy to emergencies iii. Length of stay in hospitals is reduced to 6hrs/24hrs iv. Allows for HIV testing of children when health worker is exposed. HIV guidelines indicate otherwise v. Does not address the issue on contra-ceptives

The Nakuru MNCH Bill

Ms Saoyo noted that the initial conversation relating to the regulation of maternal, newborn and child health began in 2016 but the then MNCH Bill was poorly drafted and was consequently rejected when it was introduced in the County Assembly. She further stressed the need to ensure that the current MNCH Bill was a good bill.

In the drafting of a good bill, Ms Saoyo advised that the following factors should be considered:

i. Does the bill duplicate another bill or an existing legislation?

ii. Is the bill easy to understand?

iii. She also advised that the Bill should avoid instances where various stakeholders, on the basis of unconstitutionality, can challenge the Bill. For example, section 24 of the HIV Prevention and Control Act, which was declared unconstitutional by the High Court, and section 38 of the Sexual Offences Act was deleted upon FIDA challenging the provision, as the same was punitive to victims who reported. He further noted that in Makueni, for example, the limitation of adolescents in access to condoms might end up being problematic because it negates from the provisions of the Adolescents Package of Care and National Condom Policy and Strategy

In conclusion, Ms Saoyo identified the following as the key potential problem areas with respect to pushing the MNCH Bill agenda forward: -

i. Termination of pregnancy: - The need to ensure the Committee has proper moving notes in respect to this provision because the Committee anticipated challenges

ii. Access to contraception for adolescents.

iii. The minimum age for testing of HIV for minors without consent: - It was noted that this was an ongoing discussion at the national level and it was, therefore, important to address the issue at the county level

iv. The minimum length of stay for mothers in hospital post-delivery. Dr. Otara highlighted that the global guidelines provided for 48 hours and further indicated that it was important for the Committee members to put into consideration the various challenges, which would result as a result of the minimum length of stay, for example, the issue of limited facilities, and hence the proposal to leave it open and at the discretion of the medical expert to decide whether to keep the patient or not subject to undertaking an examination.

SESSION TWO: OVERVIEW OF THE NAKURU MNCH BILL- PROF. BOAZ OTIENO-NYUNYA, FOCAL PERSON/REPRODUCTIVE HEALTH AND RIGHTS ALLIANCE PROJECT CONVENER, KMA REPRODUCTIVE HEALTH COMMITTEE

Summary

This session aimed at the following:

i. Understanding the history of the Bill

ii. To note the recommendations made by the Nakuru County Health Management Team (CHMT)

Historical Overview of the Bill

Prof Nyunya noted that the initial process began in 2016, and KMA and KELIN decided to work together with the CHMT for purposes revising the Bill shortly after the County Assembly rejected the original version of the Bill. He noted that the current (revised) MNCH Bill focuses on the protection of women's and children's SRHR (including aspects on HIV), quality and affordable service delivery (including emergency care) as well as resource allocation.

Prof. Nyunya further noted that the revision process was consultative and included stakeholders such as the Nakuru County Health Management Team who were custodians of the final revised bill presented to them by KMA in June 2017. The revised Bill was re-introduced to the newly constituted

Nakuru County Assembly Committee on Health Services in March 2018

Key Recommendations made to the Bill

i. Provide for a clear definition of a health care provider

ii. Include trained community health workers for referral purposes

iii. The inclusion of sections on adequate medical care

iv. The inclusion of grounds for termination of pregnancy as provided by the Constitution and SOA

v. Discernment of the roles of healthcare providers and law enforcement (the previous draft stated that a healthcare provider could punish a fellow HCP who did not comply with the bill)

vi. Right for a child to consent to healthcare services

vii. Removal of clauses on HIV that contradicted the HIV Prevention and Control Act

Prof. Nyunya reiterated the importance of profiling the stakeholders working in the field of MNCH in order to get their buy-in and eventual support for the passing of the bill.

Way forward

To come up with a roadmap to ensure that the MNCH Bill goes through because it is a progressive Bill offering protection to women and Children's SRHR

Prof. Nyunya assured the Committee members that KMA and KELIN were ready to offer technical expertise to the Committee to ensure the Bill moves forward.

Plenary Session

Committee members requested a similar capacity building workshop on the Bill for the rest of the members of the county assembly. In response to the Chair, Hon. Njuguna commented as follows:

1. Capacity building to the committee members was very crucial for purposes of equipping with the necessary information, including on medical terms with a focus on the contentious areas to ensure members are prepared.
2. Need for a caucus prior to the third reading for the committee members and the full county assembly to ensure members have knowledge and understanding of the Bill
3. Plan stakeholder engagements for early buy-in to make sure that we clear out any issues from members of the assembly and ensure they are addressed in time so that when the Bill is tabled in the house they will not ask any questions

On the request for capacity building, Ms Saoyo proposed that due to the financial constraints of the partners, it would be best for the Chair and his team to consider identifying members who have traction, commitment and are in a position to support the Bill for purposes of capacity building. It was further proposed that it was crucial to map out and groom supportive MCAs on the Bill.

In conclusion, the Chair, Hon. Njuguna advised that the Committee had enough ground and information to ensure the Bill goes through and in terms of technicalities that may arise when the bill is tabled, committee members will be well capable to address the same

SESSION THREE: OVERVIEW OF THE NAKURU MNCH BILL- DR. AMOS OTARA, CHAIRMAN KMA NAKURU DIVISION

This session was aimed at understanding the Nakuru MNCH Bill and its current status.

Dr. Otara started off by indicating that the issue of universal health care was part of the Current President's big 4 agenda and therefore as part of contributing towards access to universal health care, the key objective of the MNCH Bill and the workshop was to see how best to ensure women do not lose their lives while giving birth.

He reiterated that the issue of maternal health was very important and noted that the maternal mortality ratio in Kenya rose to 488/100,000 from 414/100,000 and some of the causes included haemorrhage, sepsis, hypertensive diseases, abortion and obstructed labour. Key to note was the emphasis that among the above causes, abortion remains a preventable cause of maternal deaths.

Dr Otara indicated that unsafe abortion was a significant contributor to the high maternal mortality rates in Kenya and most of the deaths were as a result of an unsafe environment and it was, therefore, important to address the issue at the county level. He further noted that the issue of unsafe abortion can be effectively minimized by ensuring women have access to quality and affordable sexual and reproductive information, education & health services including contraceptive services; and a supportive legal and policy framework that facilitates safe abortion.

He further presented the Nakuru County reproductive health overview, which was as follows:

- Projected total Population – 2,027,137
- Women of Reproductive Age population – 505,624
- Expected deliveries - 72,690
- TFR – 3.7 children/woman (KDHS 2014)
- Current Family Planning uptake at 46% (2016)
- County Contraceptive Prevalence Rate - 53.4%(Modern methods – KDHS 2014)
- County Contraceptive Prevalence Rate at 56.8% (All methods –KDHS 2014)
- Unmet Family Planning need – 20.8%(RV region-KDHS 2014)
- Teenage pregnancy rate – 18.4% (KDHS 2014)
- Deliveries by Skilled Birth Attendant– 69.5% (KDHS 2014

Notably, he brought to the attention of the Committee members that one of the glaring issues included teenage pregnancies which stand at 18.4%. Implementation of the MNCH Bill, when passed, would address these issues.

It was recommended that there was the need to incorporate the issue of teenage mothers still in school by making a provision to protect them in terms of access to health, education i.e. return to school policies and the issues faced by teenage mothers are addressed in the Bill including the lactation time and rooms.

Dr Otara further gave an overview of the Nakuru MNCH Bill, 2018 as summarized below:

i. The Right to maternal care and provides for the right to affordable, accessible maternal health services in a dignified and respectful manner

ii. Right to Newborn Health

iii. Right to Child Health Care and provides that every child has a right to free immunization, vaccination, growth, monitoring and de-worming at any public health facility. In addition, right to access free medical care at any public health facility for a child below the age of five.

iv. Provisions relating to Health Facilities and goes further to make provisions relating to the ideal medical facilities, the minimum care package, emergency services and adequate medical providers.

1. **Dr Otara further made the following observations:**

i. That county legislators have an obligation to ensure that they come up with the minimum requirements in respect to health facilities, based on the existing policies, for purposes of ensuring compliance

ii. It was important for the Committee members to consider how best to improve the access to contraception

iii. There was a need for capacity building of the medical resources available in Nakuru County.

2. **In conclusion, Dr Otara called on the Committee to partner with likeminded persons and stakeholders for purposes of pushing the MNCH Bill forward.**

Plenary Session

In the plenary session, the participants sought to understand the provisions of the breastfeeding policy and guidelines. The participants noted that the guidelines required breastfeeding for 6 months and employers have an obligation to ensure they provide facilities for purposes of breastfeeding.

Participants noted that Section 71 and 72 of Health Act, 2017 made it compulsory for employers to ensure there is a lactation room, which must meet the following requirements:

- Have an electronic socket
- A fridge
- Sufficient sitting space
- Comfortable chair;
- Hand washing facilities
- Sink and table.

Participants, therefore, agreed that it was important for the Committee to ensure the same is complied with and the Chair recommended the provisions of section 71 be anchored in the Bill

Participants further recommended that in issuing planning approvals for both private and public use, provisions of lactation rooms should form part of the parameters.

Way forward

After deliberations, the participants agreed as follows:-

1. Anchor the provisions of section 71 on the Bill for purposes of ensuring compliance and give the county an oversight role for purposes of ensuring compliance.
2. Anchor the same requirement for purposes of issuing planning approvals
3. Identify/ map out stakeholders for the public participation
4. Anchor requirement in the Bill that development of health facilities including dispensaries should cater for maternal mother, maternity/delivery room

SESSION FOUR: OVERVIEW OF THE BILL AND DRAFTING OF MOVING NOTES- JULIA KOSGEI, KMA

The main objective of this session was to review the current Bill clause by clause for purposes of ensuring that the Committee members were okay with the provisions, address key issues arising from the provisions and make recommendations for revision of certain clauses.

The discussions during this session spilt over to day 2 and a summary of the discussions during this session are as highlighted below:

Article	Deliberations/key issues raised/way forward
Article 3 (b)	Committee members sought to clarity on the provisions of this clause. Dr Joy highlighted that the clause was addressing the maternal care provided to a mother pre and post delivery including access to supplements and safe delivery.
Article 4	Participants noted that this article laid down the specific rights of mothers and newborns and the attributes of medical facilities. Participants indicated that there was a need to formulate a subsequent article to make provisions for dispensaries and delivery rooms. **Response**: The partners advised that the proposed provision was already catered for under the article on health facilities ***Way forward: It was agreed that the article was adequate and it was prudent to avoid including items that were already covered under the national laws and policies***
	Participants further sought to clarity on whether the article catered for teenage mothers. **Response:** The partners advised that the clause provides for "Every Woman" which given an interpretation woman means a person of the female gender including a "girl" hence the said provision was adequate ***Way forward: Clause adequately covers teenage mothers hence clause remains as is***
Article 5	Committee members proposed the inclusion of community health workers with respect to increasing access to services **Response:** The partners were of the view that the inclusion of community health workers was not recommended because the county did not have guidelines on the training of community health workers but would be included to increase access to community-level referral services After deliberations, it was agreed that a clause is included that recognizes community health workers, with a limited role in certain medical activities in accordance with the provisions of the Community Health Workers Strategy Paper. ***The way forward: Proposal adopted. Refer to the table below on proposed amendments to the Bill***

Article	Deliberations/key issues raised/way forward
Article 6	This specific article elicited immense deliberations with the Committee members seeking elaboration for purposes of justification of the said clause, especially on the circumstances under which pregnancy can be terminated The partners indicated that the provisions of article 6 were in line with the provisions of the Constitution Participants sought to understand how a medical expert would determine the health and physical aspects of the unborn child. **Response:** The partners advised that technological advancements assist in making diagnosis/ determine the health and physical aspects f the unborn child. They further stressed the right of the mother and father of the unborn child to information relating to the health of the unborn child. Doctors are indeed bound to give such information and provide the options available to the parents After deliberations, it was agreed that there was a need to rephrase the clauses to a 'more acceptable language' especially on instances where the fetus suffers from Gross Abnormalities which would be incompatible with life ***The way forward: Proposal adopted. Refer to the table below on proposed amendments to the Bill***
	In respect to article 6 (1) (c), participants opined that the issue of sexual assault be given more weight and backing because the clause as read was likely to be abused by the medical practitioner. Ms Saoyo indicated the need to protect and give a reprieve to minors who are defiled and come up with measures on how to protect such victims of rape and defilement. She further added that given the annual police crime statistics of reported cases of rape and defilement, which stood at 800:4000 respectively, it was prudent that this issue is addressed and covered in the Bill. Another participant sought to understand how to deal with marital rape. The partners advised that the Sexual Offences Act exempted the application of the provisions under section 43 (5) from people who are legally married ***After deliberations, it was agreed that the clause is reworded to limit it to pregnancy as a result of rape/ defilement as defined in the Sexual Offences Act with a proviso that in all instances the survivor is counselled appropriately and given all available options including adoption.*** ***It was further agreed that the current article 6 (2) be deleted*** ***The way forward: Proposal adopted. Refer to the table below on proposed amendments to the Bill***
Article 7	The Committee members sought to propose that the consent of a senior health provider should not be limited for only one provider **Response:** The partners advised that the proposal by the Committee members would be providing for a degree than what is provided for under the constitution ***Way forward: The Bill must mirror the provisions under the Constitution. Provision to remain as is***
	In respect to clause 7(3), the Committee members argued that it was not proper to give caregivers of mentally ill persons authority to give consent on termination of pregnancy. In the alternative, they proposed that the clause should be deleted as it was likely to be misused or the decision be left to the courts In response, Prof. Nyunya objected to the proposal to leave the decision to the courts since the judicial process is a huge barrier, he advised that the judicial process should be the exception rather than the norm. He further argued that the constitution was very clear, that is in the opinion of the health care provider, and hence the decision was in the hands of the patient and the health care provider ***After deliberations, it was proposed that the use of mentally disordered person be replaced with mentally impaired person and to amend the clause in respect to mentally impaired person to oblige the health care service to assess the capacity of the mentally impaired person to appreciate the pregnancy, noting the best interest of the mentally impaired person shall prevail.*** ***The way forward: Proposal adopted. Refer to the table below on proposed amendments to the Bill***
Article 9	The partners called on the Committee members to familiarize themselves with the provisions of the HIV Prevention & Control Act since it formed the basis for testing of a pregnant woman for HIV. It was further noted that the undertaking of tests was not mandatory but was usually undertaken with the key objective being the protection of the life of the unborn child.
Article 15	Participants noted that the provisions of this article sought to cure the issues raised in respect to article 5(1)
Article 16	One of the Committee members raised an issue on the use of the term child and proposed the inclusion of the term "underage" before the term child. The partners advised that the term child is already defined under the definitions section and makes reference to the definition under the Children's Act and the Constitution

Article	Deliberations/key issues raised/way forward
	Dr Joy sought clarity on whether the consent under article 16 would also extend to surgical treatment, including sex change procedures. In regard to this issue, some participants proposed the introduction of an exclusionary clause whose intention would be to exclude sex reassignment from surgical treatment. Some participants opined that the introduction of the exclusion will open the Bill to more resistance especially from the special group After deliberations, it was agreed that the Bill should not regulate gender reassignment and the clause should remain as is. ***Way forward: Provision to remain as is***
Article 18	Ms Saoyo brought to the attention of the Committee members that the County Government was responsible for the payment of associated costs for HIV testing for adoption purposes. Dr Joy proposed the County to consider transferring the cost to the person undertaking the adoption. The Chair of the Committee proposed the clause be retained as it is since the clause already had the provision "where the circumstances permit" ***Way forward: Provision to remain as is***
Article 20	Some Committee members proposed to make provisions for creating awareness through sex education instead of making contraceptives accessible. Other participants opposed this proposal on the basis that the same was prohibitive and as such would not deter the engagement of underage sexual activities Dr Otara in response reiterated the need to allow sexually active children access to contraception since there was a lot of evidence to support the fact that minors are very sexually active. He further indicated that a national study carried out by the ministry of health indicated that the highest majority of women who had sought unsafe abortions were between 15-19 years A Committee member sought to understand whether there was a law prohibiting underage sexual activities. In response, Ms Saoyo advised that the Penal Code presumes that a male person under the age of 12 years is incapable of carnal knowledge It was further proposed that the clause on condoms be reworded to provide for the provision of condoms in areas where they can access them. Another Committee member sought to restrict contraceptives only to condoms. In response, Ms Saoyo presented to the participants the minimum care package for adolescents by MOH and indicated that such restriction would not meet the standards. ***After deliberations, it was agreed that the phrase "including condoms" be deleted under article 20 (2)***
Article 21	Participants proposed the inclusion of an additional clause 21 (2) that makes provision for youth-friendly centres in a very health facility ***The way forward: Proposal adopted. Refer to the table below on proposed amendments to the Bill***
Article 22	Participants commented that level 5 and 6 hospitals had not been included in the provisions of this clause 21. It was agreed that the same be included ***The way forward: Proposal adopted. Refer to the table below on proposed amendments to the Bill***
Article 23	Participants proposed to have ambulances per centre/division as the wording of clause 23(1) may limit access of ambulances to the wards/sub-wards. In response, Dr Joy and Dr Otara indicated that the use of the words " Strategic Locations" was sufficient and covered the concerns raised. The Chair, Hon. Njuguna, further indicated that there was a proposal at an advanced stage for a command centre where all ambulances will be centred and dispatched to ensure availability. ***Way forward: The provisions of 23 (1) were sufficient*** In respect to article 23 (2), some participants were of the opinion that the provisions were rather discriminatory to the male gender and it was, therefore, important to include a definition of Medical Treatment. In response, it was argued that the Constitution already made provisions for Emergency Treatment. It was proposed that for purposes of regulating the clause it was important to reword the said provision to include the phrase maternal and newborn and restrict emergency treatment to maternal, newborn and child health-related conditions. ***The way forward: Proposal adopted. Refer to the table below on proposed amendments to the Bill***

Article	Deliberations/key issues raised/way forward
Article 25	It was proposed that article 25 (3) be reworded to include in consultation with all relevant stakeholders instead of health care providers Prof. Nyunya indicated that the use of the term Neonatal was similar to Newborn and proposed the same be substituted with Newborn It was further proposed that under article 25 (3) (d) ambulances be included on the list It was further proposed that a new provision 25 (3)(i) be included that mandates the county executive committee to make regulations for training and facilitation of county health workers in line with the National Policy on the same. It was agreed that Ms Saoyo would come up with a suitable phrase to substitute the phrase *"Facilitation"* ***The way forward: Proposals adopted. Refer to the table below on proposed amendments to the Bill***

Proposed amendments to the MNCH Bill

	Current Provision	Proposed amendment
Article 5 Persons Authorized to offer adequate medical care	The following persons shall be authorized to offer adequate medical care a) Medical practitioners; b) Clinical Offers; c) Nurses/midwives	Proposed an additional clause, clause 5 (2), which recognizes community health workers with a limited role in certain medical activities as laid put in the Community Health Workers Strategy Paper. To further provide that any person linked to their community health worker shall be given priority at the hospitals.
Article 6 Termination of Pregnancy	1) A pregnancy may be terminated if a trained and licensed Health Care Provider, after consultation with the pregnant woman, is of the opinion that: d) The continued pregnancy would pose a risk of injury to the woman's health; or e) There exists a substantial risk that the foetus would suffer from a gross physical or mental abnormality; or f) Where the pregnancy resulted from sexual assault, as defined in the Sexual Offences Act; or 2) A statement by a pregnant woman to the medical practitioner concerned or verbal, written or audio statement from the practitioner on a report of the incidence is adequate to prove that her pregnancy is as a result of sexual assault 3) The termination of the pregnancy shall only be carried out by a licensed health care service provider in a facility authorized by the Medical and Dentist Practitioners' Board, Clinical officers council, or the Nursing Council of Kenya or any other relevant authority is given the responsibility of licensing health facilities. 4) Health providers shall offer voluntary counselling before and after termination to facilitate informed consent for termination of pregnancy and post-abortion family planning.	1) A pregnancy may be terminated if a trained and licensed Health Care Provider, after consultation with the pregnant woman, is of the opinion that: a) ……; b) there exists a substantial risk that the foetus as a result of Gross Abnormalities, would be incompatible with life. c) Where the pregnancy is as a result of rape/ defilement, as defined in the Sexual Offences Act, provided that in all instances a survivor shall be counselled appropriately and given options available including adoption. 6(2) be deleted.

	Current Provision	Proposed amendment
Article 7 Consent of pregnant woman	1) Subject to section 6(1), termination of pregnancy may only take place with the written consent of the pregnant woman or in emergency situations by a next of kin or a senior health care provider authorized by any other such authority 2) In the case of a pregnancy minor, a health care service provider shall advice the minor to consult with her parents, guardian or such other person with parental responsibility over the said minor, before the pregnancy is terminated, provided that the best interest of the minor shall prevail and a written consent obtained from the parent or guardian or a health care provider or any such authority in emergency situations	7 (3) In the case of a mentally impaired person, the health care service provider shall first access their capacity to appreciate the pregnancy and thereafter shall consult with the guardian over the said person before the pregnancy is terminated, provided the best interest of the mentally impaired person shall prevail
	3) In the case of a mentally disordered person, the health care provider shall consult with the guardian over the said person before the pregnancy is terminated. 4) A health care service provider who has a conscientious objection to the termination of pregnancy has a legal duty to provide timely referral of the pregnant woman to a service provider who can provide this service; except in emergency situations where such a health care provider has a legal and ethical duty to offer emergency care.	
Article 20 Access to Contraceptives or a child	1) No person may refuse- a) To sell condoms to a child if such child is sexually active, or already a parent, thus engaged in sexual activities that put them at risk of STIs and pregnancy; or b) To provide a child with condoms on request where such condoms are provided or distributed free of charge if such person is sexually active 2) Contraceptives including condoms may be provided to a child on request without the consent of the parent or guardian of the child if- a) The child is of sufficient maturity and mental capacity to understand health information to make an informed choice; b) Proper medical advice and counselling is given to the child; and c) A medical examination is carried out to determine whether there are any medical reasons why a specific contraceptive should not be provided 3) A child of sufficient maturity who obtains condoms, contraceptives or contraceptive advice in terms of this Act is entitled to confidentiality in this respect.	Amendment to clause 20 (2) to read as follows: "Contraceptives may be provided to a child on request without the consent of the parent or guardian of the child if…."
Article 21 Medical Facilities	A person offering maternal and child care services shall operate in a conducive environment with adequate medical facilities necessary to offer quality medical care.	A new article 21 (2) be introduced to read as follows: " There shall be established youth friendly centres in every health facility"

	Current Provision	Proposed amendment
Article 22 Minimum package of care	There shall be established a minimum maternal, newborn and child health package for the provision of MNCH services at all levels of care from tier 1 (community) to tier 4 in the county.	There shall be established a minimum maternal, newborn and child health package for the provision of MNCH services at all levels of care
Article 23 Emergency services	1) There shall be ambulances stationed in strategic locations available 24 hours a day at easy access to rural health facilities, and communities for referral of mothers and newborns to a higher level facilities 2) No woman or child shall be denied emergency medical treatment in any health institution, regardless of their inability to pay.	Article 23 (2) be amended to read as follows: "No woman or child shall be denied emergency maternal, Newborn and Child health-related condition, medical treatment in any health institution, regardless of their inability to pay
Article 25 (3) Power of County Executive to make Regulations	3) The County Executive Committee member, in consultation with health care providers within Nakuru County, shall make regulations:- a) To promote best practices on safe motherhood; b) To facilitate the provision of affordable maternal and neonatal care in all health institutions c) Establish a health financing system for maternal, newborn and child health services d) Provide the necessary physical infrastructure, medical equipment, medicines and commodities e) To facilitate operational research f) Establish a minimum package of care for MNCH services and ensure adherence by all MNCH service providers g) Promote adherence to the provision of respectful maternity care and other patient rights h) Ensure that all maternal and perinatal deaths are audited at both facility and community level and quality improvement interventions identified from the audits implemented to prevent more deaths from preventable causes	**Article 25 (3)** be amended to read as follows The County Executive Committee member, in consultation with all relevant stakeholders within Nakuru County, shall make regulations **Article 25 (3) (b)** be amended to read as follows: To facilitate the provision of affordable maternal and newborn care in all health institutions **Article 25 (3) (d)** be amended to include the phrase ambulances Provide the necessary physical infrastructure, medical equipment, ambulances, medicines and commodities Introduce an additional clause 25 (3) (i) to read as follows: To regulate, train and facilitate county health workers in line with what has been provided under the National Policy on the training of Community Health Workers.

DAY TWO: 6TH OCTOBER 2018

WAY FORWARD & NEXT STEPS

In conclusion, the following was adopted as the way forward:

1. KELIN and KMA to revise the Bill and share the revised Bill in the next 14 days from 6th October 2018
2. Ms Saoyo to circulate copies of the Kilifi and Makueni Maternal Newborn Child Health Acts to the Chair of the Nakuru County Committee on Health Services
3. The Committee members to work towards ensuring the Bill is enacted into law
4. The Chair to advise when the Bill will be tabled before the County Assembly

CLOSING REMARKS, WRAP UP & VOTE OF THANKS

Hon. Njuguna Mwaura (Chair, Nakuru County Committee on Health Services)

In his closing remarks, Hon. Njuguna thanked the partners for their assistance and committed to coming back to the partners should the Committee require further assistance with the Bill. He further committed to work around the clock to ensure the Bill is enacted into Law and called on the Committee members to support the Bill and read widely to come up with adequate defences to better defend the Bill especially on the contentious issues which are also very contemporary, more so on abortion, contraceptives

Ms Linda Kroeger (KELIN)

In her closing remarks, Ms Linda thanked the Committee members for making time to discuss the pertinent issues relating to health and requested them to work towards ensuring that the Bill is enacted.

Prof. Nyunya (KMA)

In his closing remarks, Prof. Nyunya reiterated on the need to be realistic rather than moralistic especially when dealing with the issues that the Bill seeks to address. He further called on the Committee members and the partners to have a proper roadmap towards the realization of the Bill, especially on the expected time when the Bill will be tabled before the County Assembly.

Photo 1: The entire team takes a group photo after a successful meeting reviewing the Nakuru Maternal Newborn and Child Health Bill.

Photo 2: Members of the Nakuru County Assembly Health Services Committee are awarded certificates for participation.

Photo 3: KMA and KELIN facilitators interact after a deliberative session.

Photo 4: Ms. Tabitha Saoyo awards a certificate of participation to a Nakuru Member of County Assembly.

Photo 5: Ms. Linda Kroeger from KELIN winds up the meeting with reflections from the discussions.

Photo 6: Members of the Nakuru County Health Services Committee actively participate and listen in on the session.

ANNEXURES

PROGRAMME

DAY 1

Time	Session	Facilitator
8.30:00AM - 9.00AM	Arrival and Registration	
9:00AM – 9.45AM	**Opening Session:** Welcoming Remarks ▪ Introductions ▪ Remarks from KMA Nakuru division and KELIN ▪ Remarks from the Nakuru County Assembly Health Committee Chairperson	Prof. Boaz Otieno-Nyunya Dr Joy Mugambi, Saoyo Tabitha Griffith Hon. Njuguna Mwaura
9.45AM – 10.45AM	**Session 1**: Key highlights and updates on the legislative framework on SRHR ▪ Health Act, 2017 ▪ Kilifi Maternal Newborn Child Health Act ▪ Makueni Maternal Newborn Child Health Act	Saoyo Tabitha Griffith
10.45AM – 11.00AM	Health Break	
11.00AM – 11.45AM 11.45AM – 1.00PM	**Session 2**: Overview of the Nakuru MNCH Bill ▪ History of the Bill ▪ Recommendations made by the Nakuru CHMT **Session 3**: Review of the Bill and development of draft moving notes ▪ Plenary	Julia Kosgei Dr Amos Otara Moderators: Dr. Amos Otara/ Dr. Joy Mugambi
1:00PM - 2:00PM	Lunch Break	
2:00PM - 5:00PM	**Session 4:** Review of the Bill and development of draft moving notes ▪ Plenary	Moderators-Julia Kosgei & Linda Kroeger

PROGRAMME

DAY 2

Time	Session	Facilitator
8.30AM - 9.00AM	Recap	
9:30 AM – 10.30AM	**Session 5**: Finalization of the Bill and draft moving notes ▪ Plenary	Moderators-Julia Kosgei & Linda Kroeger
10.30AM – 10.45AM	Health break	

Time	Session	Facilitator
10:45 AM – 12.30PM	**Session 6**: Mapping out champions within the County Assembly ▪ Opportunities and challenges to engage the committee members during the debates. ▪ Strategies for support **Closing Session:** Closing remarks	Hon. Njuguna Mwaura and Health Committee Members Prof. Boaz Otieno-Nyunya
1:00PM - 2:00PM	Lunch and Departure	

LIST OF PARTICIPANTS

NO.	NAME	ORGANIZATION
	Jacqueline Manyara	Nakuru County Assembly
	Gladys Kairu	Nakuru County Assembly
	Caroline Kilisha	Nakuru County Assembly
	Elizabeth Wangari	Nakuru County Assembly
	John Mwangi	Nakuru County Assembly
	Wilson Mwangi	Nakuru County Assembly
	John Ndonyo	Nakuru County Assembly
	Karanja Mburu	Nakuru County Assembly
	Samwel Karanja	Nakuru County Assembly
	Josphat Murage	Nakuru County Assembly
	Njuguna Mwaura	Nakuru County Assembly
	Moses M. Kamau	Nakuru County Assembly
	Philip Rotich	Nakuru County Assembly
	Michael Njoroge	Nakuru County Assembly
	Anthony Rotich	Nakuru County Assembly
	Njuguna John	Nakuru County Assembly
	Cecilia Karanja	Nakuru County Assembly
	Lily Kones	Nakuru County Assembly
	Rose Chepkoech	Nakuru County Assembly
	Michael Machembu	Nakuru County Assembly
	Maurine Lesingo	Nakuru County Assembly
	Jane Ngugi	Nakuru County Assembly
	Daniel Kiriethi	Nakuru County Assembly
	Dr Amos Otara	KMA
	Dr Joy Mugambi	KMA
	Prof. Boaz Otieno-Nyunya	KMA
	Julia Kosgei	KMA
	Febrone Achieng	KMA
	Saoyo Tabitha	KELIN
	Linda Kroeger	KELIN
	Cynthia Kyaka	KELIN

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