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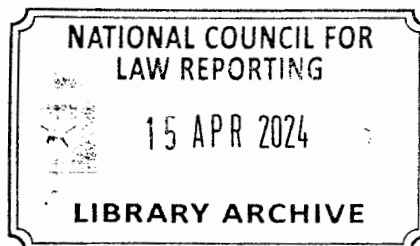
NAIROBI, 28th March, 2024

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THE MEDICAL SOCIAL WORKERS BILL, 2024

A Bill for

AN ACT of Parliament to make provision for the training, registration and licensing of medical social workers; to regulate their practice; to provide for the establishment, powers and functions of the Medical Social Workers Council and for connected purposes

ENACTED by the Parliament of Kenya as follows—

PART I – PRELIMINARY

1. This Act may be cited as the Medical Social Workers Act, 2024, and shall come into force twelve months after publication in the *Gazette*.

Short title and commencement.

2. In this Act, unless the context otherwise requires—

Interpretation.

“approved institution” means the Kenya Medical Training College, institutions established under the Universities Act, 2012 and the Technical and Vocational Education and Training Act, 2013 and such other training institution as the Council may approve;

No. 42 of 2012.
No. 29 of 2013.

“Association” means the Kenya Medical Social Workers Association

“Cabinet Secretary” means the Cabinet Secretary for the time being responsible for matters relating to health;

“chairperson” means the chairperson of the Council;

“Council” means the Medical Social Workers Council established under section 3;

“financial year” has the meaning assigned to it under Article 260 of the Constitution;

“Gazette” has the meaning assigned to it under Article 260 of the Constitution;

“medical social work” means the assessment, diagnosis, treatment and evaluation of individual, interpersonal and societal issues through the use of social work knowledge, skills, interventions and strategies in connection with health to facilitate the achievement of optimum psychosocial functioning;

“medical social worker” means a person registered under this Act as such;

“Register” means the register of medical social workers maintained under section 21;

“Registrar” means the person appointed under section 12;

PART II—MEDICAL SOCIAL WORKERS COUNCIL

3. (1) There is established the Medical Social Workers Council.

Establishment of
the Council.

(2) The Council shall be a body corporate with perpetual succession and common seal and shall, in its corporate name, be capable of—

- (a) suing and being sued;
- (b) purchasing or otherwise acquiring, holding, charging and disposing of movable and immovable property;
- (c) borrowing money;
- (d) entering into contracts; and
- (e) doing or performing all other things or acts necessary for the proper performance of its functions under this Act, which may lawfully be done or performed by a body corporate.

4. (1) The headquarters of the Council shall be in the Nairobi, but the Council shall ensure access to its services in all parts of the Republic in accordance with Article 6 (3) of the Constitution.

Headquarters of
the Council.

(2) Notwithstanding subsection (1), the Council may establish such units as it considers necessary for the proper discharge of its functions.

5. (1) The object and purpose for which the Council is established is to exercise supervision and control over the training and practice of medical social work in Kenya.

Functions of the
Council.

(2) Without prejudice to the generality of subsection (1), the Council shall—

- (a) prescribe the minimum educational requirements

for persons wishing to be registered as medical social workers under this Act;

- (b) consider and approve the qualifications of medical social workers for the purposes of registration under this Act;
- (c) license the private practice of medical social workers;
- (d) maintain a register and keep a record of all persons registered and licensed to practice as medical social workers in accordance with this Act;
- (e) regulate the professional conduct of registered medical social workers and take such disciplinary measures as may be appropriate to maintain proper professional standards;
- (f) establish and maintain a professional code of conduct for all persons registered under this Act;
- (g) formulate, approve and accredit programs for continuing professional development;
- (h) cause to be published in the *Kenya Gazette* every calendar year or on such other period as may be prescribed, the names of all registered medical social workers;
- (i) collaborate with other relevant government agencies and professional associations on matters relating to medical social work; and
- (j) advise the Cabinet Secretary on matters relating to medical social work; and
- (k) perform such other functions as may be prescribed by any other law or as necessary for the promotion of objects of this Act.

6. (1) The Council shall have all the powers necessary for the proper performance of its functions under this Act and any other written law.

Powers of the Council.

(2) Without prejudice to the generality of subsection (1), the Council shall have the power to—

- (a) manage, control and administer the assets of the Council in such manner and for such purpose as

best promotes the purpose for which the Council is established;

- (b) open such bank accounts for the funds of the Council as may be necessary;
- (c) determine the provisions to be made for capital and recurrent expenditure and for the reserves of the Council;
- (d) subject to approval of the Cabinet Secretary for the time being responsible for matters relating to finance, invest any surplus funds of the Council not immediately required for the purposes of this Act, as it may determine;
- (e) receive gifts, grants, donations or endowments made to the Council and make legitimate disbursements therefrom;
- (f) enter into association with such other bodies or organizations within or outside Kenya as it may consider appropriate and in furtherance of the purposes for which the Council is established; and
- (g) undertake any activity necessary for the performance of any of its functions.

7. (1) The Council consists of—

Composition of
the Council.

- (a) a chairperson appointed by the Cabinet Secretary from amongst persons nominated under paragraph (f);
- (b) the Director-General for health or a representative designated in writing;
- (c) the Director of Medical Social Work in the Ministry responsible for matters relating to health;
- (d) the Chief Executive Officer of the Kenya Medical Training College or a representative not below the level of a Deputy Director designated in writing;
- (e) the chairperson of the Kenya Medical Social Workers Association;
- (f) three medical social workers nominated by the Kenya Medical Social Workers Association;
- (g) the Registrar who shall be an *ex officio* member of the Council.

(2) A person qualifies for appointment as the chairperson of the Council if the person—

- (a) holds a degree in Medical Social Work, Mental Health, Psychology, Sociology, Social Work, Counselling, Anthropology or its equivalent from a university recognized in Kenya;
- (b) has proven knowledge and experience of at least ten years in matters of medical social work;
- (c) is registered as a medical social worker under this Act; and
- (d) meets the requirements of Chapter Six of the Constitution.

(3) A person qualifies for appointment as a member of the Council under subsection (1) (e) and (f) if the person—

- (a) holds a degree in Medical Social Work, Mental Health, Psychology, Sociology, Social Work, Counselling, Anthropology or its equivalent from a university recognized in Kenya;
- (b) has knowledge and experience of at least five years in medical social work;
- (c) is registered as a medical social worker under this Act; and
- (d) meets the requirements of Chapter Six of the Constitution.

(4) The Cabinet Secretary shall make regulations to prescribe the criteria for nomination of members referred to in subsection(1) (e) and (f).

(5) A person shall not qualify for appointment as a chairperson or a member of the Council, if the person—

- (a) is a member of Parliament or County Assembly;
- (b) is an official of a governing body of a political party;
- (c) is an undischarged bankrupt;
- (d) has been convicted of a criminal offence and sentenced to imprisonment for a term exceeding six months;

- (e) has been removed from office for contravening the provisions of the Constitution or any other written law; or
- (f) in the case of Members referred to in subsection 1 (e) and (f), has been and remains removed from the register or his or her practicing licence has been suspended under section 26.

(6) The appointment of the chairperson and members under subsection 1 (e) and (f) shall be by name and by notice in the *Gazette*.

8. (1) The Chairperson and Members shall serve on part-time basis. Term of office.

(2) The Members appointed under section 7 (1) (a), (e) and (f) shall hold office for a term of three years and shall be eligible for re-appointment for a further term.

(3) The members appointed under section 7 (1) (b), (c) and (d) shall hold office during their tenure of office unless removed from office by the appointing authority.

9. (1) A member of the Council, other than an *ex officio* member, shall cease to be a member of the Council, if the person = Vacation of office.

- (a) is unable to perform the functions of the office by reason of mental or physical infirmity;
- (b) is incompetent or has neglected duty;
- (c) is adjudged bankrupt;
- (d) is convicted of a criminal offence and sentenced to a term of imprisonment of more than six months;
- (e) is absent from three consecutive meetings of the Council without good cause;
- (f) resigns in writing by a notice addressed to the Cabinet Secretary;
- (g) ceases to be a registered medical social worker under this Act;
- (h) dies; or
- (i) is removed from office in accordance with the provisions of the Constitution.

(2) Whenever a vacancy arises under section 7 (1) (e) and (f), the Cabinet Secretary shall within seven days of such vacancy, notify the Kenya Medical Social Workers Association to submit the names of their nominees within fourteen days from the date of receipt of the notification.

10. (1) The Council may establish Committees for the effective performance of its functions under this Act.

Committees of the Council.

(2) The Council may co-opt into the membership of a Committee established under subsection (1), any person whose knowledge and expertise may be necessary for the effective performance of the functions of the Council.

(3) A person co-opted into a Committee under subsection (2), may attend the meetings of the Committee and participate in its deliberations, but shall not vote at such meetings.

11. (1) The Council shall conduct its business and affairs in accordance with the provisions of the First Schedule.

Conduct of business.

(2) Without prejudice to subsection (1), the Council may regulate its own procedure.

12. (1) The Council shall, through an open, transparent and competitive recruitment process, appoint a suitably qualified person to be the Registrar of the Council.

Registrar of the Council.

(2) A person is qualified for appointment as the Registrar of the Council if the person —

- (a) is a citizen of Kenya;
- (b) is a medical social worker registered under this Act;
- (c) holds a degree in Medical Social Work, Mental Health, Psychology, Sociology, Social Work, Counselling, Anthropology or its equivalent from a university recognized in Kenya;
- (d) has had at least ten years proven experience in medical social work; and
- (e) meets the requirements of Chapter Six of the Constitution.

(3) The Registrar shall serve on such terms and conditions as the Council may determine.

(4) The Registrar shall, in the performance of the functions and duties of the office, be responsible to the Council.

(5) The Registrar shall hold office for a period not exceeding four years and may be eligible for re-appointment for a further and final term of four years.

(6) The Registrar shall—

(a) be the Secretary and Chief Executive Officer of the Council;

(b) be the accounting officer of the Council;

(c) be responsible for—

(i) implementing the decisions of the Council regarding all matters relating to the registration and regulation of medical social work;

(ii) the day-to-day administration and management of the affairs of the Council;

(iii) co-ordination and supervision of the staff of the Council;

(iv) keeping and maintaining the register of persons registered as medical social workers in accordance with this Act;

(v) subject to the directions of the Council, make the necessary alterations or corrections in the register;

(d) perform any other duties as may be assigned by law and the Council.

13. (1) The Registrar may be removed from office by the Council in accordance with the terms and condition of service, for—

Removal of the Registrar from office.

(a) inability to perform the functions of the office arising out of physical or mental infirmity;

(b) gross misconduct or misbehaviour;

(c) incompetence or negligence of duty;

- (d) violation of the Constitution or any other written law; or
- (e) any other grounds specified in the terms and conditions of service of the Registrar.

(2) Where the question of the removal of the Registrar under subsection (1) arises, the Council shall act in accordance with the principles of fair administrative action prescribed under Article 47 of the Constitution and the Fair Administrative Action Act.

No. 4 of 2015.

14. (1) The Council shall, through a competitive and transparent process, employ such officers, agents and other staff as may be necessary for the proper discharge of its functions under this Act, upon such terms and conditions of service as the Council may determine upon the advice of the Salaries and Remuneration Commission.

Staff of the Council.

(2) The Council shall, in the appointment of employees, ensure—

- (a) equalization of opportunities for the youth;
- (b) that not more than two thirds of its staff are of the same gender; and
- (c) that the appointment of staff reflects the ethnic and regional diversity of the people of Kenya.

15. (1) The members of the Council shall be paid such allowances and disbursements as may be approved by the Cabinet Secretary upon the advice of the Salaries and Remuneration Commission.

Remuneration.

(2) The Registrar and staff of the Council shall be paid such salary or allowances as shall be determined by the Council upon the advice of the Salaries and Remuneration Commission.

16. (1) A member of the Council or any person acting on the directions of the Council, shall not be personally liable for any act done in good faith for the purpose of executing the powers, functions or duties of the Council under the Constitution or this Act.

Protection from personal liability.

(2) Subsection (1) shall not relieve the Council of the liability to pay compensation or damages, for loss or injury

to a person or property, caused by the exercise of any power conferred by this Act, or by the failure, whether wholly or partially, of any works.

PART III—TRAINING AND REGISTRATION OF MEDICAL SOCIAL WORKERS

17. (1) No person being in charge of a training institution in Kenya shall—

Approved training institutions.

- (a) admit persons for training with a view to qualifying for registration under this Act;
- (b) conduct a course of training or administer the examination prescribed for the purposes of registration under this Act; or
- (c) issue any document or statement implying that the holder has undergone a course of training or passed the examinations prescribed by the Council for purposes of registration,

unless such institution is established or accredited under the Universities Act, 2012 or the Technical and Vocational Education and Training Act, 2013.

No. 42 of 2012.
No. 29 of 2013.

(2) A person who contravenes any of the provisions of subsection (1) commits an offence and shall, on conviction, be liable to a fine not exceeding one million shillings, or to imprisonment for a term not exceeding three years or to both.

(3) The Council shall publish a list of the training institutions approved under the Universities Act, 2012 and the Technical and Vocational Education and Training Act, 2013.

No. 42 of 2012.
No. 29 of 2013.

18. (1) A person is eligible to be registered as a medical social worker under this Act, if the person—

Qualifications for registration.

- (a) is the holder of a qualification recognized by the Council;
- (b) after obtaining that qualification, has engaged in an internship in medical social work under the supervision of a registered medical social worker for such period, being not less than one year, as the Council may approve; and

- (c) satisfies the Council that while engaged in internship as specified in paragraph (b), has acquired sufficient knowledge of, and experience in the practice of medical social work.

(2) A person who is the holder of a qualification from an accredited institution outside Kenya shall be eligible for registration under this Act as a medical social worker, if the person—

- (a) holds a diploma or degree obtained from an institution that is recognized by the regulating authority responsible for the registration of medical social workers in the country where he studied;
- (b) has engaged in internship in medical social work for such period, being not less than one year, as the Council may approve;
- (c) meets such requirements for a course leading to a qualification in medical social work as prescribed by the Council shall from time to time pursuant to section 5 (2) (a);

(3) Where the Council finds that a person has not completed all courses prescribed pursuant to section 5 (2) (a), the Council shall require that person to—

- (a) attend such interview as may be appropriate;
- (b) undergo an oral or written examination or both; or
- (c) take the courses required in an institution recognized and approved by the Council prior to engaging in supervised practice.

(4) Despite subsection (3), all qualifications issued by a university or institution accredited under the Universities Act, 2012 or the Technical and Vocational Education Training Act, 2013 shall be recognized by the Council.

No. 42 of 2012.
No. 29 of 2013.

(5) The Council may, after assessing the suitability for registration of a person under subsection (1) and (2), direct that before registration, the person shall undergo such further period of training or pass such examination in an institution accredited under the Universities Act, 2012 or Technical and Vocational Education and Training Act, 2013.

No. 42 of 2012.
No. 29 of 2013.

(6) The Council shall not authorize the registration of a person unless it is satisfied —

- (a) that the requirements of subsection (1) or (2) have been fulfilled; or
- (b) in the case of a person referred to in subsection (3), that the requirements of subsection (5) have been fulfilled and that the person has undergone any further period of training or passed any examination specified by the Council.

(7) The Council may, where it considers it expedient, delegate the assessment of suitability for registration under subsection (2) to a committee of the Council which shall, after making the assessment, make recommendations to the Council.

19. (1) A person who meets the requirements under section 18 of this Act, may apply for registration to the Council.

Application for registration.

(2) The application referred to under subsection (1), shall be in the prescribed manner, accompanied with=

- (a) copies of professional and educational certificates;
- (b) such registration fees as may be determined by the Council; and
- (c) any other document as may be necessary to prove qualification for registration.

(3) An applicant who obtained their qualifications outside Kenya shall furnish evidence satisfactory to the Council that the applicant =

- (a) has completed a course of study in medical social work which is substantially equivalent to the accredited program approved by the Council;
- (b) is a graduate of an institution, college or university recognized by the Council;
- (c) is registered or is eligible for registration in the country of study;
- (d) has engaged in medical social work practice under the supervision of a medical social worker registered by the Council for such period, being

not less than one year, as the Council may approve; and

- (e) has successfully completed a written examination approved by the Council.

(4) The Council shall register every qualified person by such particulars as the Council may prescribe, in the register kept for that purpose pursuant to section 21.

(5) Every person registered under subsection (4) shall be issued with a certificate of registration.

20. (1) A person whose name has been entered in the register as a registered medical social worker shall, for as long as his or her name remains in the register, be entitled to adopt and use the style and title prescribed by the Council.

Effect of
registration.

(2) The Registrar shall issue a certificate of registration to a person whose name is entered into the register.

21. (1) The Registrar shall keep and maintain a register in which the name of every person registered under this Act shall be entered showing—

Register.

- (a) the date of the entry in the register;
- (b) the registration number of the person;
- (c) the date of issue of the practicing licence;
- (d) the address of the person registered;
- (e) the nationality of the person;
- (f) the qualifications of the person; and
- (g) such other particulars as the Council may prescribe.

(2) A person whose name is entered in the register under subsection (1) shall inform the Registrar of any changes in the particulars set out under subsection (1).

(3) A person may, during normal office hours and on payment of the prescribed fee, inspect the register and any document relating to an entry and may obtain from the Registrar a copy or extract from the register of any such document.

(4) The Registrar shall cause to be published in either electronic or print media, not later than the 31st day of March of every year, particulars of medical social workers duly registered under this Act.

(5) A publication made under this subsection (4) shall be prima facie evidence—

- (a) that a person whose name has been entered in the register under this Act is qualified to provide medical social work services; or
- (b) that a person whose name does not appear in such publication or has been deleted from the register as notified by such publication is duly registered under this Act.

(6) The Registrar may for a specified duration, and on the recommendations of the Council, remove from the register, any person whose name has been fraudulently entered, or any person—

- (a) convicted of an offence under this Act or any other law and sentenced to imprisonment for a term exceeding six months;
- (b) whose name the Council has directed that it should be removed from the register for breach of the provisions of this Act;
- (c) declared bankrupt; or
- (d) who has failed to satisfy the requirements for the continuing professional development programme for the time being in force.

(7) Where the Registrar establishes that an entry has been erroneously or incorrectly entered in the register, the Registrar may correct the error and notify the affected person of such corrections.

(8) The Registrar may, with the consent of the person concerned, remove from the register the name of a person who has ceased to practice.

(9) A name removed from the register under subsection (5) may, at the request of person concerned, on the approval of the Council and on payment of the prescribed fee, be reinstated by the Registrar.

(10) The Registrar shall, as soon as reasonably practicable cause the name and address of every person whose name is removed from the register under this section, to be published in the *Gazette*.

22. (1) Subject to this Act, a person shall not provide medical social work services or engage in private practice as a medical social worker unless, that person has been registered and issued with a practicing licence under this Act.

Practicing licence.

(2) For the purposes of this Act, a person shall be deemed to engage in private practice if the person practices as a medical social worker —

- (a) on the person's own account and is entitled to receive the entire amount of all fees and charges earned for the person's own financial benefit;
- (b) in partnership with others and is entitled to receive a share of the profits earned by such partnership and is liable to bear a share of any losses incurred by such partnership, but no person shall be deemed to engage in private practice where he is employed

—

- (i) by the Government or any other public body;
- (ii) by a state corporation as defined by the State Corporations Act; or
- (iii) by any person or partnership engaged in his profession where all fees and charges earned by him are to the benefit of his employer, notwithstanding that he is engaged in his professional capacity as a medical social worker.

Cap. 446.

(3) A person who engages in private practice as a medical social worker contrary to the provisions of this section commits an offence and shall, on conviction, be liable to a fine not exceeding five hundred thousand shillings, or to imprisonment for a term of not less than one year, or to both.

23. (1) An application for a practicing licence shall be made to the Registrar in such form as may be prescribed.

Application for practicing licence.

(2) A person applying for a practicing licence under subsection (1), shall be required to submit an application in the prescribed form accompanied by a certificate of continuing professional development issued by the Council and a prescribed fee.

(3) The Council, where the applicant —

- (a) satisfies the requirements of subsection (2);
- (b) is duly registered under this Act; and
- (c) is not for the time being suspended from practice, within sixty days of receipt by the Council of the application, issue to the applicant a practicing licence in the prescribed form.

(4) The Registrar shall keep a copy of every application made under this section.

24. (1) Every practicing licence shall bear the date on which it is issued and shall have effect from that day.

Validity of
Practicing
Licence.

(2) A practicing licence issued under subsection (1), shall be valid from the date it is issued and shall expire on the 31st of December of the year it is issued.

(3) Where the name of the medical social worker is removed or struck off the register, the practicing licence, if any, shall expire forthwith.

25. (1) A person who holds a practicing licence may on the expiry of the practicing licence apply to the Council for a renewal of the certificate in the prescribed form at least thirty days before the date of expiry thereof.

Renewal of
Practicing
Licence.

(2) The Council may, with sufficient cause, refuse to issue or renew a licence and shall communicate the refusal and give reasons for such refusal to the applicant within twenty-one days of making the decision.

26. (1) The Council may suspend or cancel a certificate issued under this Act where—

Suspension and
cancellation of
practicing licence.

- (a) allegations of misconduct have been investigated and proven against a medical social worker;
- (b) a medical social worker has been convicted of an offence under this Act;

- (c) a false declaration was made in the application for a practicing licence; or
- (d) a medical social worker has contravened any of the provisions of this Act.

(2) The cancellation or suspension of a practicing licence under subsection (1), shall be subject to the principles of fair administrative action prescribed under Article 47 of the Constitution and the Fair Administrative Action Act.

No. 4 of 2015.

27. A person whose name has been removed from the register or whose certificate has been suspended or cancelled, shall not provide medical social work services during the period of removal of name, suspension or cancellation of his or her practicing licence.

Effect of removal of name from register and suspension or cancellation of a practicing licence.

PART IV—DISCIPLINE

28. (1) There is established a Disciplinary Committee of the Council which shall consist of —

Disciplinary Committee.

- (a) the Chairperson of the Kenya Medical Social Workers Association who shall be Chairperson of the Committee;
- (b) the Director-General for health;
- (c) three medical social workers not being members of the Council, elected by the members of the Association and appointed by the Cabinet Secretary;
- (d) the Attorney-General or a designated representative; and
- (e) the Registrar who shall be an *ex-officio* member and the secretary of the Committee.

(2) The quorum of the Committee shall be three members.

(3) A member of the Disciplinary Committee shall hold office for three years and shall be eligible for reappointment for one further term of office.

(4) The Council shall provide the Disciplinary Committee with such facilities and resources as are necessary to enable it to competently discharge its functions.

(5) The Council shall pay to its members such remuneration, fees or allowances for expenses as it may determine, in consultation with the Cabinet Secretary.

29. The Council may refer a matter to the Disciplinary Committee if it has reason to believe that a person registered under this Act has been, either before or after the person was registered —

Reference of matters to the Disciplinary Committee.

- (a) convicted of an offence punishable by imprisonment for more than six months, the commission of which in the opinion of the Council, has dishonoured the person in the public estimation;
- (b) guilty of negligence or professional misconduct in respect of that person's profession; or
- (c) guilty of impropriety or misconduct in respect of that person's profession.

30. (1) The Committee shall inquire into any matter referred to it by the Council and to make its recommendations thereon to the Council.

Procedure at the Disciplinary Committee.

(2) Upon inquiry by the Committee, the medical social worker subject to the inquiry shall be afforded an opportunity to be heard either in person or through an advocate.

(3) For the purpose of proceedings at any inquiry by the Committee, the Committee may administer oaths or affirmations and may, subject to any rules made under this Act, enforce the attendance of persons as witnesses and the production of any books or other documents relevant to the inquiry.

(4) The Committee shall, subject to any rules made under this Act, have power to regulate its own procedure in any disciplinary proceedings.

31. (1) Where on the recommendations of the Committee, the Council is satisfied that a medical social worker is in breach of any of the terms or conditions prescribed by the Council under this Act, the Council may —

Disciplinary measures.

- (a) impose a fine which the Council deems appropriate in the circumstances;

- (b) issue the medical social worker with a letter of admonishment;
- (c) suspend the certificate of registration of the medical social worker for a specified period of not less than three months but not exceeding three years;
- (d) withdraw or cancel the practicing licence of the medical social worker for a period of not less than twelve months but not exceeding three years; or
- (e) remove the name of the medical social worker from the register.

(2) The Council may order a medical social worker to reimburse costs and expenses incurred in connection with a disciplinary hearing and such costs shall be a civil debt recoverable by the Council.

(3) Where, after the hearing in disciplinary proceedings under this Act the Committee recommends to the Council that a medical social worker is unfit to practice as a result of ill-health, the Council may, if satisfied with the Committee's recommendations, withdraw the certificate of registration or practicing licence of the medical social worker until such time as the Council is satisfied that the medical social worker is fully recovered to resume his or her duties.

32. (1) A medical social worker who has been suspended from practicing may appeal to the Council for the lifting of the suspension any time before the expiry thereof.

Lifting of
suspension.

(2) Where the Council is satisfied that the suspension of the medical social worker should be lifted, the Council shall, upon receipt of the prescribed fee, lift the suspension and restore to the medical social worker, his certificate of registration and practicing licence.

33. (1) A medical social worker whose name has been removed from the register may, after the expiry of a period of three years from the date of such removal, appeal to the Council for restoration of his name in the register.

Restoration of
name in register.

(2) The Council may, after considering the appeal made under subsection (1), cause the name of the applicant

to be restored in the register, upon payment of the prescribed fee.

PART V—FINANCIAL PROVISIONS

34. (1) The funds of the Council shall comprise of — Funds of the Council.

- (a) monies as may accrue to or vest in the Council in the course of the exercise of its powers or the performance of its functions under this Act;
- (b) monies as may be payable to the Council pursuant to this Act or any other written law;
- (c) gifts, grants, donations or endowments as may be given to the Council; and
- (d) monies from any other lawful source provided for the Council.

(2) All the funds donated, lent or issued to the Council under this Act shall be accounted for and appropriated in accordance with the Public Finance Management Act.

No. 18 of 2012.

35. The financial year of the Council shall be the period of twelve months ending on the thirtieth day of June in each year.

Financial Year.

36. (1) The Council shall within three months before the commencement of the financial year, cause to be prepared estimates of its revenue and expenditure for that financial year.

Annual estimates.

(2) The annual estimates shall make provision for all estimated expenditure of the Council for the financial year concerned, and in particular shall provide for the—

- (a) the payment of salaries, allowances and other charges in respect of the staff of the Council;
- (a) the payment of allowances and any other emoluments to the members of the Council;
- (b) the payment of pensions, gratuities and other charges in respect of

retirement benefits which are payable out of the funds of the Council;

- (c) the proper maintenance of buildings and grounds of the Council;
- (d) the acquisition, maintenance, repair and replacement of the equipment and other movable property of the Council; or
- (e) the creation of such reserve funds to meet future or contingent liabilities in respect of retirement benefits, insurance or replacement of buildings or equipment, or in respect of such other matters as the Council may consider appropriate.

(3) The annual estimates shall be approved by the Council before the commencement of the financial year to which they relate and shall be submitted to the Cabinet Secretary for approval and after the approval, the Council shall not increase the annual estimates without the consent of the Cabinet Secretary.

37. (1) The Council shall cause to be kept all proper books and records of accounts of its income, expenditure, assets and liabilities.

Accounts and audit.

(2) Within three months at the end of each financial year, the Council shall submit to the Auditor-General or to an auditor appointed under this section, the accounts of the Council together with—

- (a) a statement of income and expenditure of the Council during the year;
- (b) a statement of the assets and liabilities of the Council on the last day of that year.
- (c) a cash flow statement for the financial year; and
- (d) any other statements and accounts that may be necessary to fully disclose the financial position of the Council.

(3) The accounts of the Council shall be audited and reported upon in accordance with the provisions of the Public Audit Act.

No. 34 of 2015.

(4) The fees payable to an auditor appointed under subsection (2) shall be determined and paid by the Council.

38. The Council shall, within three months after the end of each financial year, cause a report on the work undertaken by the Council during that financial year to be supplied to the Cabinet Secretary, and shall cause such further information as may be required by the Cabinet Secretary from time to time to be supplied.

Annual report.

PART VI—MISCELLANEOUS PROVISIONS

39. A person who engages in practice or charges a professional fee without a valid certificate under this Act commits an offence and shall be liable, on conviction, to a fine not exceeding five hundred thousand shillings, or to imprisonment for a term not exceeding two years, or to both.

Practice without a valid certificate.

40. (1) A certificate under the seal of the Council to the effect that a person is or was at any date registered under this Act shall be conclusive evidence of the facts so stated.

Certificates.

(2) All certificates under the seal of the Council shall remain the property of the Council.

(3) A person whose name is removed from the register, or in the case of a deceased person, his or her legal representative, shall, within thirty days of the publication of such removal, surrender the certificate of registration of that person to the Council.

(4) A person who—

- (a) destroys or defaces a certificate of registration;
- (b) without reasonable excuse, is in possession of a certificate of registration not issued to him or her; or
- (c) fails to surrender a certificate of registration under subsection (3),

commits an offence and shall, on conviction, be liable to a fine not less than five hundred thousand shillings, or to imprisonment for a term not exceeding two years, or to both.

41. (1) Any act or omission which is an offence under this Act or any rules made hereunder shall, if done by a body corporate, be deemed to be an offence committed by

Offences by partnerships or bodies corporate.

every director, secretary or manager of the body corporate unless proved that the offence was committed without consent or connivance and that he exercised all such diligence to prevent the commission of the offence as he ought to have exercised having regard to the nature of his or her functions and the circumstance of the case.

(2) If an offence under this Act or any rule made hereunder is committed by a partner in a firm, every person who, at the time of the commission of the offence, was a partner in that firm, or was purporting to act in that office shall be deemed to have committed the offence unless there is proof that the offence was committed without his consent or connivance and that he exercised all such diligence to prevent the commission of the offence as he ought to have exercised having regard to the nature of his functions and the circumstances of the case.

42. (1) No person shall practice as a medical social worker in any institution or in any other place in Kenya unless that person is registered under this Act.

Offences relating
to registration.

(2) A person who contravenes the provisions of subsection (1) commits an offence and shall, on conviction, be liable to a fine not more than five hundred thousand shillings, or to imprisonment for a term not less than twelve months, or to both.

(3) No person shall, while in charge of any institution or any other health organization in Kenya, allow a person who is not registered under this Act to practice as a medical social worker in the institution.

(4) A person who contravenes the provisions of subsection (3) commits an offence and shall, on conviction, be liable to a fine not exceeding five hundred thousand shillings or a term of not less than two years, or to both.

(5) Any person who, in an application for registration, wilfully makes a false or misleading statement or presents a false certificate, commits an offence and shall, on conviction be liable to a fine not exceeding five hundred thousand shillings, or to imprisonment for a term of not less than one year, or to both.

43. Subject to the provisions of this Act, every registered medical social worker shall pay to the Council such subscription fee as the Council may prescribe.

Subscriptions.

44. A person aggrieved by a decision of the Council in the performance of its functions under this Act, may, pursuant to Article 165 (6) of the Constitution, make an application to the High Court for redress within thirty days from the date the decision was made.

Redress.

PART VII—DELEGATED LEGISLATION

45. (1) The Cabinet Secretary shall in consultation with the Council, make regulations for the better carrying into effect the functions of the Act.

Regulations.

(2) Without prejudice to the generality of subsection (1), the regulations made under this section may provide for—

- (a) criteria for nomination of members referred to in section 9 (1) (e) and (f);
- (b) the fees to be charged under this Act;
- (c) the form and method of keeping the registers and other records under this Act;
- (d) the forms to be used in connection with this Act;
- (e) the guidelines on the training and continuing professional development of medical social workers;
- (f) the standards and conditions of professional practice of a registered medical social worker to provide medical social work services;
- (g) the form and method of conducting inspection, assessment, evaluation, examination or regulation required under this Act; and
- (h) any other matter that may be related to medical social work practice in Kenya.

(3) For the purpose of Article 94 (6) of the Constitution—

- (a) the purpose and objective of the delegation under this section is to enable the Cabinet Secretary to make regulations for better carrying into effect the provisions of this Act; and
- (b) the authority of the Cabinet Secretary to make regulations under this Act is limited to bringing

into effect the provisions of this Act and fulfilment of the objectives specified under this section.

(4) The principles and standards applicable to the delegated power referred to under this Act are those set out in—

- (a) the Statutory Instruments Act;

No. 23 of 2013.
- (b) the Interpretation and General Provisions Act;

Cap. 2.
- (c) the general rules of international law as specified under Article 2 (5) of the Constitution; and
- (d) any treaty and convention ratified by Kenya under Article 2 (6) of the Constitution.

PART VIII— GENERAL PROVISIONS

46. A person who contravenes any of the provisions of this Act commits an offence and shall, on conviction, be liable to a fine not exceeding five hundred thousand shillings or to an imprisonment term not exceeding one year or to both.

General penalty.

47. (1) A person operating as a medical social worker before the commencement of this Act, shall, within ninety days of the commencement of this Act, formalize his or her registration with the Council.

Transitional provisions.

(2) Within twelve months after the enactment of this Act, all persons providing medical social work services and who have not undertaken the prescribed courses shall undertake any of the courses prescribed by the Council to be eligible for registration as a medical social worker under this Act.

48. Where there is conflict between the provisions of this Act and the provisions of any Written law with regard to powers or functions of the Council under this Act, the provisions of this Act shall prevail.

Act to supersede other Acts.

SCHEDULES**S. 12(1)****FIRST SCHEDULE****CONDUCT OF BUSINESS AND AFFAIRS OF
THE COUNCIL**

1. (1) The Council shall meet at least four times in every financial year and not more than four months shall elapse between the date of one meeting and the date of the next meeting. Meetings.

(2) Notwithstanding subparagraph (1), the Registrar in consultation with the chairperson, may, on requisition in writing by one-third of the members, convene a special meeting of the Council at any time for the transaction of the business of the Council.

(3) Unless three quarters of the total members of the Council otherwise agree, at least fourteen days' written notice of every meeting of the Council shall be given to every member of the Council.

(4) The chairperson shall preside at every meeting of the Council at which he or she is present but in his or her absence, a member duly elected by the members for that purpose, shall preside and shall, with respect to that meeting and the business transacted thereat, have all the powers of the chairperson.

(5) Unless a unanimous decision is reached, a decision on any matter before the Council shall be by a majority of the votes of the members present and voting and in the case of an equality of votes, the chairperson or a person presiding shall have a casting vote.

(6) Subject to subparagraph (5), no proceedings of the Council shall be invalid by reason only of a vacancy among the members thereof.

(7) Subject the provisions of this Schedule, the Council may determine its own procedure and the procedure for any committee of the Council and for the attendance of other persons at its meetings and make standing orders in respect thereof.

2. At the first meeting, the Council shall elect a vice-chairperson amongst their number and regard shall be taken Election of Vice-chairperson.

to ensure that the chairperson and vice-chairperson shall be of opposite gender.

3. The quorum at a meeting of the Council shall be half of the members or a greater number determined by the Council, in respect of an important matter.

Quorum.

4. Any contract or instrument which, if entered into or executed by a person not being a body corporate, would not require to be under seal, may be entered into or executed on behalf of the Council by any person generally or specially authorized by the Council for that purpose.

Contracts and instruments.

5. (1) The common seal of the Council shall be kept in the custody of the Registrar or such other person as the Council may direct, and shall not be used except on the order of the Council.

Common seal.

(2) The affixing of the common seal of the Council shall be authenticated by the signature of the chairperson and the Registrar.

(3) The Council shall in the absence of either the chairperson or the Registrar, in any particular matter, nominate one member of the Council to authenticate the seal of the Council on behalf of either the chairperson or the Registrar.

(4) The common seal of the Council when affixed to a document and duly authenticated, shall be judicially and officially noticed, and unless the contrary is proved, any necessary order by the Council under this section shall be presumed to have been duly given.

6. (1) If a member who has a personal or fiduciary interest in any matter before the Council and is present at a meeting of the Council or any committee at which such a matter is the subject of consideration, that person shall as soon as is practicable after the commencement of the meeting, declare such interest and shall not take part in any consideration or discussion of or vote on any question touching such matter.

Conflict of interest.

(2) A disclosure of interest made under subparagraph (1) shall be recorded in the minutes of the meeting at which it is made.

(3) No member or staff of the Council shall transact any business or trade with the Council.

(4) A member of the Council who contravenes subparagraph (1) commits an offence and is liable to a fine not exceeding two hundred thousand shillings.

MEMORANDUM OF OBJECTS AND REASONS

The proposed object of the Medical Social Workers Bill, 2024 is to provide a legislative framework for the training, registration and licensing of medical social workers for the regulation of their practice.

Part I (clause 1 to 2) provides for preliminary matters including the short title, commencement of the proposed Bill and the interpretation of terms such as medical social work, used in the proposed Act.

Part II (clause 3 to 16) provides for the establishment of the Medical Social Workers Council, its functions, powers; the composition of the Council, their term of office and qualifications for appointment. It also provides for the appointment of a Registrar who is the Secretary and Chief Executive Officer of the Council and the Registrar's functions. It further provides for the manner of appointment of staff of the Council.

Part III (clause 17-27) provides for the registration of medical social workers, the requisite qualifications and manner of applying for registration. It also provides for a register of registered medical social workers that is kept and maintained by the Council. It further provides for the issuance, renewal, cancellation and suspension of practicing licence by the Council as well as the effect of such cancellation, suspension of practicing licence and removal from the register.

Part IV (clause 28-33) provides for discipline of registered medical social workers. The Bill proposes to establish a Disciplinary Committee of the Medical Social Workers Council, whose functions shall be to inquire into any matter referred to it by the Council in the event of professional misconduct, impropriety and negligence by a practitioner.

Part V (clause 34-38) provides the sources of funds of the Council, the audit of these funds as well as report by the Council on the utilization of its funds and the activities undertaken in a given financial year.

Part VI (clause 39-44) provides for the miscellaneous provisions such as subscription fees payable annually to the Council, redress over the decisions of the Council, offences and penalties.

Part VII (clause 45) provides for the delegation of power to the Cabinet Secretary in the Ministry responsible for Health in consultation with the Council to make regulations for the better carrying into effect of the functions of the Act.

Part VIII (clause 46-48) provides for the general provisions. It sets out the general penalty and transitional provisions. It also provides that the

provisions of the Bill will upon enactment, supersede the provisions of any other law with regard to the powers of the Council.

The **First Schedule of the Bill** provides for the conduct of the business and affairs of the Council.

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

The Bill delegates legislative powers to the Cabinet Secretary but it does not limit fundamental rights and freedoms.

Statement on whether the Bill concerns County Governments

The Bill does not concern county governments in terms of Article 110(1)(a) of the Constitution.

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

This Bill is a money Bill within the meaning of Article 114 of the Constitution.

Dated the 7th March, 2024.

ROBERT PUKOSE,
Chairperson of the Departmental Committee on Health.

