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A CASE FOR REFORM OF THREE HEALTH PROFESSIONAL STATUTES: A BACKGROUND PAPER

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A CASE FOR REFORM OF THREE HEALTH PROFESSIONAL STATUTES:

A BACKGROUND PAPER

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I. INTRODUCTION

Africa Centre for Health and Social Transformation (ACHEST) has embarked on the process of initiating drafts for the reform and revision of three health sector laws. The focus of the review and updating task is:

- The Medical and Dental Practitioners Act Cap 272;
- The Nurses and Midwives Act, Cap 274; and
- The Allied Health Professionals Act, Cap 268

The Medical and Dental Practitioners Act came into force on January 30th 1998 and was enacted to consolidate the law relating to the medical and dental practice and for other connected purposes. The Nurses and

Midwives Act, Cap 274 came into force on November 8th 1996 and was enacted to provide for the training, registration enrollment and discipline of nurses and midwives of all categories and for other connected matters. The Allied Health Professionals Act, Cap 268 came into force on May 17th 1996 and was enacted to provide for the regulation, supervision and control of the allied health professionals, and to provide for the establishment of a council to register and license the allied health professionals and for other connected matters.

None of these laws have been revised, amended or varied in any way since they came into force almost twenty years ago. But it is noted that there have been significant changes in each of the practice areas that the laws were intended to regulate. New fields of practice have emerged that were not anticipated and are consequently not covered by these laws. The revival of the East African Community came after each of these laws was in force. Its advancement over the years has also given rise to the need to update the laws for various reasons. Indeed, as will be noted later in this paper, the developments at the regional level necessitate an urgent revision of each of these statutes. But the advancement of globalization has been even greater than at the EAC level. This is also the case with the advancement of technology. These are only some of the reasons why it is deemed to urgently revise these laws. There are many more reasons that are considered in this paper and beyond.

With the above considerations in mind, this law review process was intended to mainly ensure that the laws are updated and harmonized. In this context, harmonization has been defined to mean: making Consistent and Compatible with related subsectors, both with regional and time considerations. From this definition, it is noted that consistency and compatibility will be pursued on a mutually inclusive basis, unlike in other cases where these two broad objectives have been pursued exclusive of each other.

The work also notes that there is already a lot of ongoing work in this area. A number of bills have been drafted in a bid to improve the efficiency of the existing regulatory framework and may or may not have an impact on the intended review of legislation. These Bills include;

- Uganda Health Professions Authority Bill, 2016
- Emergency Ambulance Services Bill,
- Funeral Services Bill,
- The Rehabilitation and Treatment Centers Bill.

The Consultant has had access to and also notes that a lot of work has been undertaken that may relate to or directly and indirectly inform or impact upon the work of this process. Specifically, the Consultant notes that a lot of work and documentary information, including reports of stakeholder consultations went into the preparation of the Health Professions Authority Bill.[2]

[2] *This work was conducted by a team of consultants led by prof. Emmanuel kasimbazi (senior legal consultant) and dr. Paul kabwa (senior health consultant). Some of the documents reviewed in the course of the present exercise and which will be consulted at length include: their Report Of The Task Force On The*

To that end, the next section of this paper summarizes some of the available literature that informs the background process to this law reform and revision exercise. The next section highlights some of the gaps and loopholes that have been identified from a review of the present laws and some of the existing literature. The paper then makes a brief note on the developments at the EAC level. Very briefly, the next section will describe the four-part process that the Consultant will undertake to complete this task, and the last part will point out the two key deliverables that the Consultant will produce at the end of the task.

1.1 A Synopsis of the Existing Literature

Kasimbazi and Kabwa conducted a fairly thorough analysis of the various instruments that comprise the legal, policy and regulatory framework of the health profession in Uganda. [3]They consider a number of statutes that relate to or directly and indirectly affect the regulation of health professionals in Uganda. It is noted from their work that the array of statutes to consider is very wide. They consider, for instance, the Public Health Act, the Inquest Act, the Occupational Safety and Health Act, and a number of other laws not usually considered in the examination of the statutes under review. Their approach is informative in so far as it compels the Consultant to consider the statutes in a broader context.

But Kasimbazi and Kabwa considered these statutes mainly with respect to the need for the creation of an Authority. The Consultant will be considering the statutes in a much broader perspective. At the centre of this law review are the interests of various stakeholders: the regulator, the medical practitioner and the public whose health ought to be protected. The present work will therefore learn from but be broader than Kasimbazi and Kabwa's work.

Twinomugisha, in his Fundamentals of Health Law in Uganda [4] conducts the broadest assessment of health law in Uganda today. Using a human rights based approach to health; he offers a wide and deep contextualization of health rights at various levels and considering different aspects of the right to health and the roles of the attendant actors. He considers the nature, scope and sources of health law in Uganda, the right to health and the challenges to its realization in Uganda. He also offers strategies for tacking the challenges to realization of the right to health in Uganda today.

Importantly, in his chapter seven, Twinomugisha notes that the health care professional patient relationship is based on trust. A patient trusts that the professional is competent, and possesses the requisite training, qualification, skills and expertise t handle his or her health challenge. In Uganda, there are a number of health care professional councils that regulate the conduct of medical and dental practitioners, nurses and midwives, pharmacists and allied health professionals. These councils are established by statute and their main functions include maintaining registers for the relevant practitioners, disciplining those unfit to practice, overseeing professional education and guiding the practitioners on the question of professional ethics. The law encourages professional self-regulation by creating councils to ensure that health care professionals promote the interests of patients and the public.[5]

Twinomugisha's work was not only ground breaking but also the foremost and most comprehensive study of the law and rights relating to health in Uganda. This work is undoubtedly critical to the current task.

Establishment Of National Health Professions Regulatory Authority 11/4/2011, Their National Stakeholders' Consultative Workshop Report On The Formation Of A National Health Professionals' Regulatory Authority of February 24-26 2014, their Report On The Review Of Health Policies And Laws Relevant To The Establishment Of The Health Professions Authority In Uganda, July 2013, their Consultation Report for the Establishment of The Uganda National Health Professions Authority, October 2014

[3] *Kasimbazi and Kabwa (2013): Report On The Review Of Health Policies And Laws Relevant To The Establishment Of The Health Professions Authority In Uganda, July 2013*

4 Ben Kiromba Twinomugisha (2015): Fundamentals of Health Law in Uganda, Pretoria University Press

[5] *Ibid at P. 143*

The Consultant will test Twinomugisha's thoughts on the challenges to realizing the right, as well as his assessment of various aspects of the law on both the prevailing status quo and some jurisdictions that he may not have considered. The bills that will result from this process will seek to address both the challenges that Twinomugisha identified and the ones he did not.

1.2 Gap Analysis and the Need for Reform

Both pieces of literature cited above conducted an extensive assessment of the legal framework, starting with the Constitution. This paper will avoid the superfluity of repeating the same here. What this paper will do is point out some of the gaps that have been identified at the general sectorial level, as well as within the statutes.

The following are some of the broader sectorial challenges that have been identified in the existing regulatory health sector framework:

- Fragmented Regulation: The Regulation of the professions and professionals is fragmented in different Acts. This results in
- Prolonged & Licensure Processes, among many other shortcomings;
- No Coordinated Regulation: No provisions for collaboration or complementarity among the regulatory bodies such as joint inspection of premises and joint disciplinary actions;
- The need to streamline the regulation of overlapping practice areas and professionals: This is the case with, for instance, areas of practice that fall within and should be regulated as medical practice but also encompass allied health professional practice.
- A case in point is the scenario where a qualified medical doctor runs a pathology laboratory. There is need to clearly streamline the mode and requirements for licensing such practitioners and their places of operation.
- ***The need to ensure mandatory membership of professional associations***: the membership of professional associations such as Uganda Medical Association remains optional. One major change that is proposed within the new legal framework is to ensure that membership of the Associations is compulsory and required by statute.
- No regulation for some health services: e.g. funeral homes, ambulances, rehabilitation & complimentary medicine;
- ***Ambiguity***: Some of the provisions in the existing Acts are ambiguous. e.g. regulating licenses for foreign medical and dental practitioners;
- ***Some Acts are outdated***: No provisions for regulating modern health services: eg e-medicine, plastic surgery;
- Inadequate provisions for the establishment & monitoring training institutions;
- As a general note on the sector, No comprehensive law to regulate some of the health related services e.g. funeral homes, ambulances, rehabilitation & complimentary medicine;
- No provisions to protect health professionals in their practice;
- Some regulations to implement the provisions of the Acts have not been drafted;
- Inadequate resources: human & financial;
- There is no provision in our statutes for the work that is happening at the EAC level, especially in light of the East African Community Protocol on the Establishment of the East African Health Professions Authority;
- Other broad crosscutting issues include:
  - Looking at the Councils, Size of structures v. Efficiency? Adequacy of penalties?
  - Funding v. functions
  - Further legislation v. existing structures: intended Health Professionals Authority, developments at EAC level v. current structures

As Kasimbazi and Kabwa have suggested, to address the above gaps and challenges it is necessary to enact some new acts and amend some of the existing Act so as to strengthen the existing Health Professions' Regulatory framework and have a strong monitoring capacity within the government and regulatory agencies.[6]

1.3 Gap Analysis and Recommendations on specific statutes

A number of gaps were identified on the reading of each of the three statutes under review. These gaps are noted below. This information is non exhaustive and will be tested at consultations with practitioners and with the respective councils. The overall objective is to reach positions and recommend changes that that address the actual practical challenges that the regulators and practitioners face on a day-to-day basis.

2. THE MEDICAL AND DENTAL PRACTITIONERS ACT CAP 272 GAPS/WEAKNESSES/CONSTRAINTS:

The appointment of the Chairperson of the Council is made by the Minister which is undemocratic for a professional body;

- No specific provisions for regulating licenses for foreign medical and dental practitioners;
- No provisions allowing representation of other professional councils on the Medical and Dental Council;
- No provisions for regulating e-medicine;
- No provisions on incentives to attract private health practitioners to provide services in the under-served and hard to reach areas;
- No provisions to be involved in the development of guidelines to establish a training institution.
- No provisions to be involved in the approval and register of training institutions for medical and dental practitioners;
- No provisions to monitor training in training institutions for medical and dental practitioners;
- No provision to be involved in the setting of a curriculum and guidelines for conducting exams;
- No provisions for the register names of the registered medical and dental practitioners in the Government Gazette;
- No provisions for collaboration with other regulatory bodies such as joint inspection of premises and joint disciplinary actions;
- No provisions for protection of medical and dental practitioners in their professional practice;
- No clear provisions for disciplining professionals employed under the Public Services arrangement;
- No provisions for creating offences to charge non professional who use the name, trade tools and equipment that are a preserve of the medical and dental profession.
- Revisiting adequacy of penalties for malpractice?

Recommendations:

- Amending the Act to cover the following aspects:
  - Selection of the Chairperson of the Council by election amongst doctors and dental practitioners themselves; regulating licenses for foreign medical and dental practitioners;
  - Categorising clinics and the staff requirements;
  - Allowing representatives of other professional councils on the Medical and Dental Council;
  - Dispute resolution procedure and mechanisms;
  - Regulating training and examination of professionals;

[6] *5 op.cit note 2 at p. 1*

- Coordination with other professional councils on joint inspections of premises and joint disciplinary actions;
- Protection of medical and dental practitioners in their professional practice;
- Issuing licenses for interns, inspecting and accrediting new and existing institutions for medical and dental training;
- Approving and registering training institutions for medical and dental practitioners in Uganda;
- Publication of the register names of the registered medical and dental practitioners in the Government Gazette;
- Disciplining professionals under the Public Service.
- Providing for the regulation of standards for new health technologies and practices of e-medicine and other more contemporary practices
- Regulating standards of practitioners from elsewhere in the region

Develop Regulations under the Act to cover the following:

- the adaptation of new health technologies and practices such as regulation of e-medicine.
- Setting standards for cross-border practice within the East African region

3. THE NURSES AND MIDWIVES ACT GAPS/WEAKNESSES/CONSTRAINTS: GAPS:

- The appointment of the Chairperson of the Council is made by the Minister which is undemocratic for a professional body;
- No specific provisions for regulating licensing of foreign nurses and midwives;
- No specific provisions for dispute resolution;
- No clear provisions for effective involvement in the regulation of training and examination of nurses and midwifes under the BTVET arrangement;
- No powers to the Council set;
- No clear provisions to inspect and accredit new and existing training institutions for nurses and midwives under the BTVET arrangement;
- No provisions for collaboration with other regulatory bodies such as joint inspection of premises and joint disciplinary actions;
- No provisions for creating offences to charge nonprofessional who use the name, trade tools and equipment that are a preserve of the nursing and midwifery profession;
- No provisions for creating offences to charge nurses and midwives who practice without a valid certificate
- No provisions for protection of nurses and midwives in their professional practice;
- No clear provisions for categorization of nurse;
- No clear provisions for disciplining nurses and midwives employed under the Public Services arrangement.

Recommendations:

Amend the Act to cover the following:

- Selection of the Chairperson of the Council by election amongst nurses and midwives themselves;
- Create strong provisions for regulating licensing of foreign nurses and midwives;
- Establish provisions for dispute resolution;
- Create clear provisions for involvement in the regulating training and examination of nurses and midwives under the BTVET arrangement;
- Coordination with other professional councils on joint inspections of premises and joint disciplinary actions;
- Create provisions for the protection of nurses and midwives in their professional practice;

- Create provisions to be effectively involved in the inspection and accreditation of new and existing institutions for nurses and midwives under the BTVET arrangement.
- Create provisions that provide offences for practicing without a valid license;
- Create provisions for creating offences to charge nonprofessionals who use the name, trade tools and equipment that are a preserve of the nursing and midwifery profession
- Disciplining professionals under the Public Service
- Making provision for regulation of cross-border practice of persons in the EAC

Develop Regulations under the Act to cover the following:

- the adaptation of new health technologies and practices such as regulation of e-medicine.
- The regulation of cross-border practice of persons from the EAC.

4. THE ALLIED HEALTH PROFESSIONALS ACT CAP 268 GAPS WEAKNESSES/ CONSTRAINTS:

- There is a prolonged and disjointed licensing process which constrains the practice of allied professionals;
- No provisions for collaboration with other regulatory bodies such as joint inspection of premises and joint disciplinary actions;
- No provisions for regulating all allied related professional practice;
- No clear provisions for regulating licensing of foreign allied professionals
- No clear provisions for dispute resolution;
- No provisions for protection of allied professionals in their professional practice.
- No provisions for the to regulate of training and examination of professionals;
- No provisions for coordination with other professional councils;
- No clear provisions for disciplining allied health professional employed under the Public service framework;
- No provisions for creating offences to charge nonprofessional who use the name, trade tools, equipment and drugs that are a preserve of the Allied Health Professionals.

Recommendations:

- The Act can be amended to address the following:
- Create provisions for a single licensing process by the Allied
- Health Professional Council with collaboration of the NDA and the Medical and Dental Council;
- Create strong provisions for regulating licensing of foreign allied professionals;
- Create strong provisions for dispute resolution;
- Create provisions that cover all allied health professionals practice including alternative medicine and practice;
- Create provisions for the to regulate of training and examination of professionals;
- Create provisions for coordination with other professional councils in joint inspections of premises and joint disciplinary actions;
- Provisions for disciplining allied health professionals employed under the Public
- Provisions for creating offences to charge nonprofessional who use the name, trade tools equipment and drugs that are a preserve of the Allied Health Professionals

4.1 Past and Ongoing work Relating to the Present Review

As has been noted above, there is a lot of work that is ongoing and that has already been done on aspects that relate to this present work. This includes but is not limited to the work on the Bills that started in the course of the previous parliament, including the Uganda Health Professions Bill, Emergency Ambulance Services Bill, Funeral Services Bill and the Rehabilitation and Treatment Centers Bill. This work will consider all of these Bills and their background work in order to ensure that the drafts that are prepared have considered all outstanding and underlying questions.

There are also many areas on which Bills do not exist yet, but it is important to note and point out similarities or differences. This is especially critical when considering what new areas of practice have emerged that may be confused with the practice of medicine. These areas include acupuncture, plastic surgery, reflexology or even the distinction between herbalists and alternative medicine and allied health professionals. It may be worth noting for instance that reflexology has been the subject of court adjudication. [7]These sorts of disputes arise, in part, because there is need to clearly define what falls within and should be regulated and practiced as medicine and what should not. This legal review will address how all these areas either affect and should be provided for in the statutes, or do not and should be side stepped from the statutes.

4.2 A Note on the UHP Bill (as at March 2016)

It is important to note and keep in mind the possible implications of enacting the Bill that establishes the UNHPA. This is especially important because the bill will introduce a further layer of sectorial regulation. Some of the notable implications of the bill are:

- ***Enacting/Amendments/Repealing of some Acts***: New Acts, some Acts and some provisions within the Acts have to be either amended or repealed to ensure the complimentary roles between the Authority, Professions Councils and other relevant agencies e.g. NDA;
- ***Regulations:*** The Minister responsible for health is empowered to make regulations prescribing anything which in terms of this Act is to be prescribed or done by regulation or which, in the opinion of the Authority or the professional body that is necessary or convenient to be prescribed for carrying out or giving effect to the functions and responsibilities of the Authority or the professional body;
- ***Transition:*** The Bill establishing UNHRA recognized that:
- Existing councils shall continue to operate under the existing Acts;
- All regulations, rules, by-laws or notices made by the existing Acts shall remain in force as if they had been made by the appropriate profession body or authority under this Act;
- Registers and registrations before Act shall be deemed to have been established under the Act and shall continue in existence.

4.3 Harmonization of Statutes with Developments at the EAC

As already mentioned, there is a lot of work at the EAC level that is not captured in the outdated statutes presently in force. Kasimbazi and Kabwa have outlined the legal framework at the EAC level that provides for the context within which regional aspirations should be domesticated in Uganda. They deal with the two underlying EAC instruments that necessitate the harmonization of Uganda's laws on the medical profession with the norms and aspirations at the regional level.[8]

[7] *see United Reflexologists of Uganda Ltd & Anor v Malinga Minister of Healthy & Anor (HCT - 00 - CC - MC - 12 - 2011) [2013] UGCOMMC 72 (25 April 2013);*

[8] *Kasimbazi and Kabwa (2013): Report On The Review Of Health Policies And Laws Relevant To The Establishment Of The Health Professions Authority In Uganda, July 2013 at pp. 2-3*

4.4 The EAC Treaty 1999

The EAC makes provisions for the establishment of EAC Health Professions Authority. Article 9 provides for the establishment of the Organs and Institutions of the Community. The organs and institutions of the Community shall perform the functions, and act within the limits of the powers conferred upon them by or under this Treaty. Article 118 provides that partner States are required to harmonise national health policies and regulations and promote the exchange of information on health issues in order to achieve quality health within the Community and also co-operate in promoting research and the development of traditional, alternate or herbal medicines; co-operate in the development of specialized health training, health research, reproductive health, the pharmaceutical products and preventive medicine.

Article 151 requires the Partner States to conclude necessary Protocols each area of co-operation that spell out the objectives and scope of, and institutional mechanisms for co-operation and integration. Health is one the areas that require cooperation and thus the need to establish the EAC Health Professions Authority.

Gaps:

- No protocol for health training in the EAC;
- No protocol of regulating development of traditional, alternate or herbal medicines.

Recommendations:

- Develop a Protocol to regulate health training in the EAC
- Develop a Protocol to regulate traditional, alternate or herbal medicines.

4.5 The East African Community Protocol on the Establishment of the East African Health Professions Authority

This Protocol is made Articles 9, 118 and 151 of the Treaty for the Establishment of the East African Community. The Protocol intends to govern the co-operation of the Partner States in the establishment of the East African Health Professions Authority. Its objective is to establish the East African Health Professions Authority as an institutional mechanism for the coordination and regulation of the training and practice of all health professions in the East African Community Partner States which is responsible for responsible for the coordination and regulation of the training and practice of all health professions in the East African Community Partner States. The mandate of the Authority is to protect and promote the health of the population of East Africa by continuously setting and maintaining safe and high quality standards for the training and practice of all health care professions in the region. Statutory functions include the following:

- To protect and promote the health of the general public
- To set and regulate the compliance with safe and quality health care standards for the training, accreditation and practice of all health care professions registered with the Authority.
- To promote Continuing Professional Development (CPD) and ensure on-going professional competence for all health care service providers registered with the relevant constituent Health
- Profession Board and/or Council.
- To conduct annual inspection and accreditation visits to all health care providers, health care facilities and health care training institutions in order to ensure continuous compliance with approved standards
- To determine minimum basic standards for health care professional education and training in East Africa.
- To set and maintain high standards of ethical and professional practice by all health care providers, health care facilities and health care training institutions in East Africa.
- To undertake any other such act (s) may protect the general health of the population and/or promote the standards of the training and/or practice of all health professions in East Africa.

Weaknesses/ constraints

- The Protocol is not known by most of the Health Professionals in Uganda and therefore do not appreciate the basis for establishing the National Health Professions Authority;
- The Protocol requires the Sectoral Council to make regulations to operationalize the Protocol. No regulations have been made thus the Protocol is not yet implemented.

Recommendations:

- Avail copies of the Protocol to the Professional Councils and popularize it;
- The Sectoral Councils should develop Regulations setting standards on health care facilities, health care training and ethical and professional practice.

The Council of Ministers of the EAC Partner States having signed the above mentioned protocol on the establishment of the EAC Health Professions Authority, in November 2013, a regional meeting of the EAC Health Professionals Boards and Councils held in Arusha agreed that each partner state fast tracks the establishment of a National Health Professions Regulatory Authority, and that the Uganda Health Professional Councils take the lead.

At the Ministry of Health, the Registrars' Forum comprising of the Registrars and Deputy Registrars have been working round the clock collecting views from their constituent professionals with the aim of building consensus that would result into development of a framework for the formation of the Uganda National Health Professions' Authority.[9] This is the background to the Bill that has been mentioned above.

In addition to all the observations made by Kasimbazi and Kabwa, there is still need to ensure that the laws in Uganda are in tandem with the laws in the partner states, and that the regional framework is practical and can deliver in a synchronized manner. Mutual recognition of practitioners from across the EAC borders is only one aspect of the process. Specific provision will have to be made on training, licensing, inspection, supervision of practitioners and premises. All of this will be beyond the scope of the provisions of the Health Professions Bill. The proper place to consider how to license each of these therefore is the specific legislation relating to the subsectors. It is recognized here that a lot of work has already been done and remains ongoing at the ministerial level and with various stakeholders in Uganda. The current review will thus learn from and fit within the present and ongoing work, while creating the necessary foundational legal framework.

4.6 Law Review and Reform Process

The Consultant will undertake four main processes, in addition to reviewing the existing literature. As a starting point, the Consultant together with ACHEST will participate in regional stakeholder workshops. The first of these workshops was held in Kampala. Two more have been held in Soroti and Lira. The Consultant's reports of what lessons have been learned at these meetings have already been submitted to ACHEST. It is expected, time allowing, that two more meetings will be held in Jinja (for Eastern Region) and Mbarara (for

Western Region). The purpose of these meetings will be to solicit views from practitioners in the profession on what should be included in the laws.

The Consultant will engage extensively with the Councils. It is expected that these engagements will be numerous, first to enlist the views of the Councils – who are presently the regulators on what needs to change and what need not change, and subsequently to discuss proposals both from the regional workshops and from the Consultant's observations.

[9] *Kasimbazi and Kabwa (2013): National Stakeholders' Consultative Workshop Report On The Formation Of A National Health Professionals' Regulatory Authority of February 24-26 2014 at p. 28*

The Consultant will also rely on the Councils for background statistical and systemic information that ought to inform the inclusion or exclusion of matters, or redefining of parameters within the statute. For this purpose, the challenges experienced by the Councils will be of utmost importance.

At the third stage, the Consultant will benchmark with experiences from elsewhere. It is noted that Kasimbazi and Kabwa in their work benchmarked with Zambia and South Africa. Their work in this respect will be considered critically. But in addition, the Consultant intends to consider the United Kingdom, Kenya and Singapore. As an example of how the consideration of the legislation in these countries can inform the review and revision process, a synopsis of the United Kingdom and Singapore legislation and what recommendations can be made to the Ugandan process has been included to this paper as Appendix 1.

The fourth stage will be the drafting stage. The Consultant will consider all the input received from the various stakeholders and draft a bill to replace each of the existing bills under consideration. The Bills will be presented as the final output and together with them will come a Diagnostic Report of the Review process, explaining what may have changed from what is considered in this report, in the course of arriving at the final outcome. The Bills will be discussed with the Councils in detail and, barring other limitations, at a stakeholder's validation workshop.

Conclusion

The Consultant's ultimate mandate is to prepare draft bills for the Medical and Dental Practitioners Act, the Nurses and Midwives Act and the Allied Health Professionals Act. In pursuing this mandate, the Consultant's task is not to reinvent the wheel or undermine the ongoing work that has been done by others. It is also not the Consultant's intention to overlook or otherwise ignore any crucial factors or considerations. The only intention of this process is to deliver Bills that are as thorough and as inclusive as possible. The Bills should also be able to anticipate, to the most practical extent, the needs of the profession for the next foreseeable future. At the crux of this anticipation is the need to protect both the practitioners and the public from the extremities that can affect either player.

5. APPENDIX 1: A SYNOPSIS OF THE UNITED KINGDOM LEGISLATION AND UGANDAN LEGISLATION IN THE CONTEXT OF REFORMING UGANDAN LAW

The Consultant is carrying out research on the Medical & Dental Practitioners Act, the Allied Health Workers Act and the Nurses and Midwifery Acts of Singapore and the United Kingdom. In this process, the Consultant has carried out a comparison of the Acts with a view to understanding the international standards and what may need to change in the medical regulations of Uganda.

5.1 The United Kingdom: Medical Act 1983 (as amended)

The Act created the General Council which has four committees (Section 1):

- The Education Committee which is responsible for ensuring that medical practitioners are equipped with the necessary skill and competence. It can change the education standard should it decide that the current qualifying examinations are not up to par. (Section 5- 13)

  – The Health Committee which is responsible for ensuring that medical practitioners have the physical and mental capacity to carry out their duties

- The Professional Conduct Committee charged with ensuring that medical practitioners practice excellent professional conduct
- The Preliminary Proceeding Committee charged with receiving complaints and referring cases to the above committees for investigations/ inquiries.
- Any decisions of these committees are appealable to Her
- Majesty' Council and the Privy Council, depending on the decision and its basis. (Section 50)
- At all committee hearings must be present a legal assessor, who is an advocate, a solicitor or a barrister.

- The General Council is composed of elected officials, nominated officials (from Her Majesty) and appointed officials (from the Universities being represented in the United Kingdom).
- The Privy Council has supervisory and advisory powers over the General Council. (Section 50-52)
- The Act provides for full and limited registration; where full registration is for one who is qualified in the United Kingdom whereas limited registration is for persons who qualify overseas. (Section 19-25)
- Persons who qualify overseas may obtain limited registration which allows them to temporarily practice medicine in the
- United Kingdom, and may upgrade to full registration (Section 25)
- The Act calls upon the council to work with the national registration body, criminal databases, the registration of births and deaths and to make annual publications of the same, to ensure that anyone who is dismissed/ criminally penalized/dead cannot practice in the United Kingdom as a practitioner.
- The Act provides privileges of being registered as medical practitioner including the ability to sue in court for recovery of fees, only persons entitled to hold and set up appointments, only persons entitled to sign on certificates of health, and there are criminal sanctions for doing the above without registration.(Section 46-49)
- The occupations of dentists, chemists, druggists and apothecaries are not governed by this Act. (Section 54)

5.2 Singapore:

Singapore has different Acts for different medical fields which allows for the regulations to be specific and unique to that filed and these include; the Medical Registration Act, the Dental Registration Act, the Nurses and Midwives Act, the Allied Health Professions Act, Pharmacists Registration Act, Optometrists and Opticians Act, Private Hospitals and Medical Clinics Act and the Infectious Diseases Act to name a few.

5.3 The Medical Registration Act

- The Act details the object of the Act, the spirit against which the Act is to be interpreted and applied. (Section 2A)

- The Act creates the Medical Council which consists of 12 elected officials (elected amongst registered medical practitioners resident in Singapore), 8 appointed by the Minister and 2 representing the Medical Universities in Singapore. (Section 4)

- If you do not participate in elections, you are not entitled to apply for a practicing certificate.(Section 6)

- Under the Medical Council is the Credentials Committee which is responsible for vetting applicants, carrying out investigations and publishing a list of fully registered medical practitioners. (Section 29)

- There is a Specialists Accreditation Board and a Family Physician Accreditation Board that determines qualifications and advises on training programs and vets specialists and family physicians. (Section 34-35B)

- There is full and conditional registration where full registration is for persons who are qualified in Singapore, whereas conditional registration refers to persons who are qualified from specific Universities in different countries as set out in the 2nd Schedule. (Section 20 and 21)

- The Medical Council is tasked with maintaining a register for specialist, family physicians, temporarily registered medical practitioners and provisionally registered medical practitioners. (Section 19, 22, 22A)

- The Medical Council also handles voluntary removal and suspensions by medical practitioners (Section 37A)

- Non registered medical practitioners are considered unauthorized persons who are not entitled to recover fees.

- A practicing certificate must be renewed every two years.

- Registered medical practitioners are the only persons entitled to sign on certificates.

- There is temporary authorization for visiting specialists, teachers, researchers who are qualified, which last for 12 months. (Section 23A)

- There is provisional registration for persons who are working to get experience, which certificate shall be issues upon employment in an approved hospital. (Section 24)

- There is the Complaints Committee and Disciplinary Tribunal mandated with receiving complaints and carrying out disciplinary measures (Section and 38).

- Singapore's disciplinary measures are very detailed going from commencement of inquiry by the Complaints Committee, mediation, conduct investigations, (Section 38- 44) performance assessment, fitness assessment, receiving and maintaining confidentiality of information (Section 45-47), until the Complaints Committee deliberates, drafts an investigation report and issue its findings to the Medical Council, where a right of appeal lies to the Minister (Section 48-49).

- This Act also provides for the Health Committee, much like that of the United Kingdom (Section 57).

- The Act entitles a medical practitioner being investigated in any case to legal counsel (Section 59I), and mandated that all these bodies are advised by a legal assessor (Section 61).

Recommendations:

- Both Acts emphasize good character and experience as a pre-requisite to being registered which may need to be expressly set out in the Ugandan Act.

- Importation of the decentralization of management for the governing Board and or Council for medical practitioners, as highlighted in both Acts including education, complaints and discipline, professional conduct, specialists board.

- As opposed being a registered practitioner and then practicing for life, the Consultant would suggest an annual/ bi-annual license or practicing certificate that must be renewed.

- The Consultant would recommend that provisions are created expressly recognizing and authoring visiting specialists and or limited registration for persons qualified outside Uganda.

- The Consultant would suggest a detailed complaints procedure and disciplinary actions as in the case in Singapore.

- The need for legal counsel or a legal assessor in any sort of proceedings would ensure fairness in any proceeding as well as ensure all legal propriety is maintained.

- Importation of privileges clauses for registered persons, as well as penalties for unauthorized actions by unregistered practitioners.

- The Consultant would import the provisions as to different registers of the different medical practitioners, and to their different levels of registration.

5.4 United Kingdom: the National Health Service Reform and Health Care Professions Act 2002

- The Act consolidates regulations and rules governing many health care boards including English Health Authorities, Primary Care Trusts, Local Representative Committees, Local Health Boards, Strategic Health Authorities, Commission for Health Improvement and Patients' Forum, the Commission for Patient and Public Involvement in Health which different duties and responsibilities but all under the National Health Service, which ensures social and health care is up to par. (Part1)

- The Act creates the Council for Regulation of Health Care Professionals (Section 25), mandated with promoting and protecting the interests of the public, formulate policies as to professional care and to guide and encourage co-operation between other regulatory bodies such as the General Medical Council, the General Dental Council, General Optical Council,General Osteopathic Council, General Chiropractic Council, and the Royal Pharmaceutical Society of Great Britain. These bodies are mandated to work with the Council.

- Complaints from these bodies lie to courts of law (Section 29)

- The Act also applies to and amends the Medical Act, the Dentist Act, the Opticians Act, the Osteopaths Act, the Chiropractors Act (Section 30-34)

5.5 Singapore: the Allied Health Professions Act 2011

- The Act applies to audiologist, clinical psychologist, dietitian, occupational therapists, physiotherapist, podiatrist, prosthetist/ orthotist, radiation therapist, radiographer and speech therapist. (1st Schedule and are involved in the fields of occupational therapy (ergo therapy), physiotherapy and speech-language pathology (2nd Schedule).

- The Act provides for the Allied Health Professional Council mandated with issuing practicing certificates, vetting programs and maintaining registers and generally regulate the affairs regarding allied professionals.(Section 6-13)

- There is full, restricted, conditional and temporary registration (Section 14); where restricted registration refers to the type of his previous practice or mental health (Section 17) and temporary registration refers to persons strictly in Singapore for the purposes of teaching, research or study (Section 19). Conditional registration is the first available type before completing the conditions as set out by the Minster to become fully registered. (Section 18 and 16)

- The practicing certificate is renewable; however it is not stipulated as to the time. (Section 23)

- The Council is mandated to publish a list of registered allied professionals on their website (Section 24)

- The act creates the offence of false assumption of title by a non-qualified person, making false representations or enabling another to do the same (Section 29-33)

- The act has detailed disciplinary provisions similar to the Medical Registration Act (Section 38-49)

- The Act entitles an allied professional being investigated in any case to legal counsel (Section 68) and mandated that all these bodies are advised by a legal assessor (Section 70).

Recommendations

- A clear definition of who is an allied professional and to whom this Act applies to and a register kept of all the different professionals.

- The Consultant would suggest a detailed complaints procedure and disciplinary actions as in the case in Singapore and the Medical Registration Act.

- Importation of clauses that create different regulatory bodies to regulate the different allied professionals.

- The Consultant would suggest the creation of a forum for patients and public to communicate with allied professionals, as they are of various kinds.

- Importation of clauses of criminal sanctions against professionals who misrepresent themselves.

- As suggested above, the Consultant would suggest an annual/ bi-annual license or practicing certificate that must be renewed.

- Importation of provisions concerning the different types of registration; especially registration of those in Uganda to research, teach or study.

5.6 The United Kingdom: the Nursing and Midwifery Order 2001

- The Act creates the Nurses and Midwifery Act Council, principally to establish the standards of education, training, conduct, performance for nurses and midwives and to ensure that these standards are maintained (Section 3)

- Under the Council are 4 statutory committees: the Investigating Committee, the Conduct and Competence Committee, the Health Committee and the Midwifery Committee.

- Registration is renewable; however it is not stipulated as to the time. (Section 10)

- The Act provides for temporary registration of visiting nurses and midwives (Section 11)

- The Council is mandated to ensure the standards of training, and qualifications are up to par and includes, raising the educational requirements and post registration training. (Section 15-19)

- The Council is further mandated to governs standards of conduct, performance and ethics and put in place review effective arrangements for the public's sake (Section 21)

- Allegations of any sort are made to Screeners (Section 23 and 24), who are appointed by the Council, which are investigated by the Investigation Committee (Section 26) with appeals lying to the Council. The Conduct and Competence Committee and the Health Committee may also hear any questions referred to it (Section 27 and 28), who may then give or review orders, give interim orders.

- The Council shall appoint legal, medical and registrant assessors to give advice Screeners, the Committees, the Registrar and the Council (Section 34, 35 and 36).

- Appeals lie to the appropriate court.

5.7 Singapore: the Nurses and Midwives Act Cap 209

- The Act creates the Singapore Nursing Board (Section 3), mandated to vet applications for registration, accredit courses, regulate standards for training and to regulate the standard of practice and professional conduct.

- No express committees are provided for, but the Board may appoint committees if and when necessary. (Section 10)

- The Act provides for enrollment and registration of nurses and midwives subject to medical examination, induction programme, competency assessment and provisional registration and enrollment (Section 14 and 15)

- The Act provides for temporary registration to enable persons teach, undergo training or provide voluntary services which would last 2 years. (Section 16)

- The Act provides for an Advance Practice Nurse (Section 32), who has gained the requisite knowledge and experience to earn this certificate.

- The practicing certificate is renewable; however it is not stipulated as to the time. (Section 18)

- Registration or enrollments may be cancelled for contravention of the Order (Section 19)

- Appeals lie from the Board to the High Court (Section 21)

- The Act creates the offence of false assumption of title of nurse/midwife, practice by an unqualified person, employment of an unqualified person (Section 26-28), and false assumption of title of Advanced Practice Nurse (Section 34).

- Legal and medical assessors shall advise the Board and Complaints Committee (Section 39), which shall investigate any information on any complaint.

Recommendations

- The Consultant would recommend express provision for appointment of committees when and if necessary.

- The Consultant would suggest a detailed complaints procedure and disciplinary actions as in the case in Singapore's Allied Health Professionals Act and the Medical Registration Act.

- Importation of clauses of criminal sanctions against nurses and midwives who misrepresent themselves.

- As suggested above, I would suggest an annual/ bi-annual license or practicing certificate that must be renewed.

- Importation of provisions concerning the different types of registration; especially registration of those in Uganda to research, teach, study or offer temporary services.