OFFICE OF THE
LEADER OF THE OPPOSITION

MINORITY REPORT ON THE PUBLIC HEALTH (AMENDMENT) BILL, 2021

Moved Under Rule 205 of the Rules of Procedure

JULY, 2022

1. **INTRODUCTION**

Rt. Hon. Speaker and colleague Members of Parliament, on behalf of members of the committee on Health who have signed on to this Minority Report, I would like to state from the onset that we are proud of the immense effort and work that went into the majority report which took care of the majority of our positions and proposals and will go a long way in improving health care management and delivery in Uganda.

On 3rd February 2022, the Minister of Health tabled in Parliament the Public Health (AMENDMENT) BILL, 2021, and the same was referred to the Committee on Health in accordance with Rule 129(1) of the Rules of Procedure of Parliament.

The Bill seeks to address the emerging public health challenges including the new and emerging infectious diseases such as COVID – 19 and Ebola. The Bill is premised on the public health response structures and mechanisms in the National Technical Guidelines for Disease Surveillance and Response of the Ministry of Health and seeks to domesticate the World Health Organization (WHO) International Health Regulations (2005), to control the spread of infectious diseases across the borders of Uganda and to provide a public health response mechanism that will not disrupt international travel and trade.

Pursuant to Rule 205 of the Rules of Procedure of the Parliament of Uganda, we hereby present dissenting opinion from the opinion of majority of the Committee.

2. **AREAS OF DISSENT**

We dissented with majority of the Committee on the following:

a) Codification and inclusion of the following in the Bill;
    i. Patients' rights and duties
    ii. Health service providers rights and duties
b) Repeal of sanitary boards without replacing them with equivalent bodies
c) Repealing the Advisory Board of Health
d) Compulsory vaccination of adults

3. **DISSENTING OBSERVATIONS**

3.1: Codification of rights and duties of patients

We proposed to insert a new section to provide for rights and duties of patients as provided for in the Clients' Charter of 2009. The majority committee report did not agree with us but we strongly feel codifying the patients' rights will strengthen the enjoyment of right to health and delivery of quality health care services.

3.2: Clause 3- Repealing of Sanitary boards

The majority committee resolved that the sanitary boards provided for under the principal law in Section 4 be repealed.

Recommendation: Modify the provision in the Principal Act to have sanitary boards replaced with Authority and or Local Government Health Management Boards on a permanent basis.

3.3: Clause 6: Modifying Section 8 to substitute the Advisory Board of Health with Local Authority Health Boards

Clause 6 of the Bill is intended to repeal Section 8 which provides for the Advisory Board of Health. The majority report agrees with this proposal and recommends to substitute the Advisory Board of Health which is a National Body with Local Authority Health Boards.

We disagree with our colleagues in the Majority Report on the decision to abolish the Advisory Board of Health. It's our position that the Advisory Board of Health should be maintained at the national level and should not be adhoc. It should be there all the time.

Recommendation: Section 8 of the Principal Act should not be repealed.

3.4: Clause 39- mass vaccination and revaccination (compulsory vaccination of adults).

Clause 39 of the Bill sought to amend Section 47 of the parent Act to give powers to the Minister to instruct a local government to have all persons within the local government, specified in the notice, to undergo inspection and vaccination and revaccination, as the case may be. In simple terms the Bill sought to make vaccination compulsory. The majority committee report made a slight adjustment to this proposal and guided to have the Minister have the instruction gazetted and published in a News Paper of wide saturation. The majority committee report agreed to insert a new Section 48A which mandates the Minister to meet certain conditions first before requiring every one to be compulsorily vaccinated.

We disagree with the majority committee on giving powers to the Minister to order for compulsory vaccination the insertion of Section 48A notwithstanding.

Recommendation: Modify the amendment to subject the Minster's statutory order for compulsory vaccination to parliamentary approval.

Proposed amendments to the Public Health (Amendment) Bill, 2021.

Proposed Amendment 1: Insert a new Part, **Part IIA** right below Section 9(2) in the Principal Act:

Part IIA: RIGHTS AND DUTIES OF USERS AND HEALTH CARE PERSONNEL

a) Rights of users/patients

9A: The Right to Medical Care

1) Every person in need of medical care is entitled to impartial access to treatment in accordance with regulations, conditions and arrangements obtaining at any given time in the government health care system.

2) In a medical emergency, a person is entitled to receive emergency medical care unconditionally in any health facility without having to pay any deposits or fees prior to medical care.

3) Should a medical facility be unable to provide treatment to the patient, it shall, to the best of their facility, refer him/her to a place where he/she can receive appropriate medical care.

2. Prohibition of Discrimination.

No health facility or health provider shall discriminate between patients on ground of disease, religion, political affiliation, disability, race, sex, age, social status, ethnicity, nationality, country of birth or other such grounds.

3. Participation in decision – making

Every citizen has the right to participate or be represented in the development of health policies and systems through recognized institutions.

4. A healthy and safe environment

Everyone has the right to a healthy and safe environment that will ensure physical, mental and social well-being, including adequate water supply, sanitation and waste disposal as well as protection from all forms of environmental dangers such as pollution, ecological degradation and infection.

5. Proper Medical Care
A patient shall be entitled to appropriate health care with regard to both its professionalism and quality assurance based on clinical need.

6. Be treated by a named health care provider
a. Everyone has the right to know the identifiable and professional position of the person providing health care and therefore shall be attended to by clearly identifiable health care provider.
b. Ministry of Health shall issue guidelines as to the way clinicians and every health worker in medical facility shall be identified

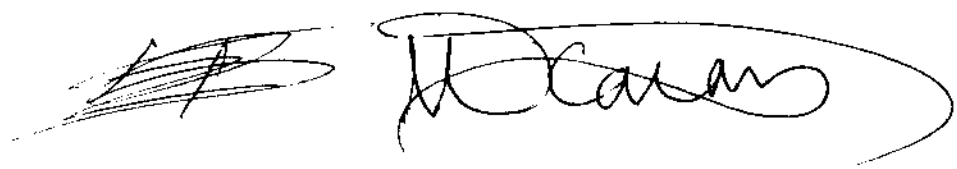
7. Training and Research
The participation of a patient or client in clinical training programs or for the purpose of obtaining information shall be voluntary and informed with written or verbal consent – and consent shall be witnessed.

8. Right to safety and security
The patient has the right to safety and security to the extent that the practices and installations of the health facility do no harm.

9. Receiving visitors
A patient hospitalized in a health facility is entitled to receive visitors at the times, and according to the guidelines provided by the facility management.

10. Informed consent
1) Every patient has the right to be given adequate and accurate information about the nature of one's illness, diagnostic procedures, the proposed treatment for one to make a decision that affects any one of these elements.

2) The information shall be communicated to the patient at the earliest possible stage in a manner that he/she is expected to understand in order to make a free informed, and independent choice. However, the clinician may withhold the medical information from the patient concerning his/her condition if he/she



strongly feels that by giving this information, it is
likely to cause severe harm to the patient's mental or physical health.

3. The way in which informed consent may be given.
a. Informed consent may be given verbally or in writing or demonstrated by patient's behavior. Consent should be witnessed.

b. In a medical emergency, informed consent shall be given as soon as possible afterwards.
The patient should be kept informed if the institution is proposing to carry out or undertake human experimentation or some other educational or research project. The patient has the right to decline to participate in such activities.

12. Refusal of treatment

a. A person may refuse treatment and such refusal shall be verbal or in writing provided that such refusal does not endanger health of others.
b. But the health provider may perform the treatment against the patient's will if the facility management has confirmed the following conditions that:
i. The patient has received information as required to make an informed choice.
ii. The treatment is anticipated to significantly improve the patient's medical condition.
iii. There are reasonable grounds to suppose that after receiving treatment, the patient will give his/her retrospective consent.
c. When the refusal of treatment by the patient or his/her authorized representative interferes with the provision of adequate treatment according to professional standards, the relationship between the patient and the health provider shall be terminated with reasonable prior advance notice.

13. Be referred for a second opinion
Every person has the right to be referred for a second opinion with or without request or when indicated.

14. Continuity of Care
No client shall be abandoned by a health care professional worker or a health facility which initially took responsibility for one's health.

15. Confidentiality and privacy

1) Patients have the right to privacy in the course of consultation and treatment. Information concerning one's health, including information regarding treatment may only be disclosed with informed consent, except when required by law or on court order.

2) Facility management shall make arrangements to ensure that health workers under their direction shall not disclose any matters brought to their knowledge in the course of their duties or their work.

3) Health facility or health worker may however pass on medical information to a third person in any of the following cases:

i. That the disclosure is for the purpose of the patient's treatment by another health worker

ii) That disclosure of the information is vital for the protection of the health of others or the public, and that the need for disclosure overrides the interest in the information's non-disclosure.

iii. That the disclosure is for the purpose of publication in a medical journal or for research or teaching purposes if all details identifying the patient have been suppressed.

16 The Patient's Right to Medical Information

The patient shall be entitled to obtain from the clinician or the medical facility medical information concerning himself/herself, including a copy of his/her medical records.

17. Custody of Medical Records:

The Ministry of Health shall be the legal owner and custodian of the medical records and will ensure that the confidentiality be the responsibility of all health workers.

18. Medical records Retention (Medical archives)

a) General - 25 years or 3 years after death

b) Obstetric: - 25 years after the birth of the child (including still birth)

c) Psychiatric: - Lifetime of the patient or 3 years after death

At the conclusion of periods set out above, the records may be destroyed but there is no obligation to do so. For research, clinicians may ask for indefinite retention.

19. Right to Redress

Every health facility shall designate a person or a committee to be responsible for the observance of patient rights, whose duties shall be:

a. To give advice and assistance to a patient as to the realization of her/his rights spelt out in this Act.

b. To receive, investigate, and process patient's complaints. Complaints regarding the quality of medical care shall be referred to the attention of the facility in-charge.

c. To educate, and instruct all medical and administrative staff in the facility in all matters regarding the patient's rights.

9B: Responsibilities of the patient/user

1. **Provision of information**
   Every patient has the responsibility to provide the health worker with relevant, complete and accurate information for diagnostic, treatment rehabilitation or counseling purposes.

2. **Compliance with instructions**
   The patient has the responsibility to comply with the prescribed treatment or rehabilitation procedures meant to improve his/her health.

3. **Refusal of treatment**
   The patient takes responsibility for his/her actions if he/she refused to receive treatment or does not follow the instructions of the health worker.

4. **Respect and consideration**
   1) The patient has the responsibility to respect the rights of other patients and the health workers and for helping to spread diseases, control noise, smoke and the number of visitors.

2) He/she shall respect the rights and property of other persons and of the health facility. Patients should refrain from using verbal abuse or physical violence

against health workers or other patients.

5. **Will**
The patient is free to advise the health care workers on his/her wishes with regard to his/her death including dying in dignity, spiritual support as well as organ support

9C: ***Responsibilities of Health Workers***

1. **Penalties**
   Any health worker who contravenes these rights may face appropriate disciplinary actions from Health Unit Management committees, Health Professional Councils, Medical Boards, and Courts of law.

2. **Duration of admission**
   The health worker shall determine each patient's stay depending on the condition, need for referral or care at home on approval from management. No in-patient shall be allowed to remain in the health facility longer than 8 weeks after admission unless the provider under whose care he/she is recommended and is approved by the facility management. The health worker shall determine this according to condition, need for referral or care at home.

9D: Rights of health care personnel

1 (a) Health care personnel may not be unfairly discriminated against on account of their health status.

(b) Despite subsection (1) but subject to any applicable law, the head of the health establishment concerned may in accordance with any guidelines determined by the Minister impose conditions on the services that may be rendered by a health care provider or health worker on the basis of his or her health status.

(c) Subject to any applicable law, every health establishment must implement measures to minimise-

(i) injury or damage to the person and property of health care personnel working at that establishment
(ii) disease transmission

(d) **A** health care provider may refuse to treat a user who is physically or verbally abusive or who sexually harasses him or her.

Justification:
Today, many states, especially those with state-run health care systems like Uganda, still see the entitlement to health care as a collective one, which gives rationing superiority over individual entitlements. The realization of patients' rights in resource-constrained and patient-burdened public health care settings in Uganda remains an obstacle towards quality health care delivery, health care seeking behavior and health outcomes. Although the Uganda Patients' Charter of 2009 empowers patients to demand quality care, inequitable access and abuse remain common.

The resolute urge to humanize health care so that Uganda's is in tandem with her international community of friends that are World Health Organization (WHO) compliant to cause Universal Health Coverage (UHC) is growing like never before. Placing health service seekers at the center of health care champions have met scorn form health workers and providers that choose staying unregulated. The Ministry of Health- Uganda adopted the patient's rights charter in 2009. It must be acknowledged that the 1995 Constitution of the Republic of Uganda, as amended does not explicitly entitle Ugandans- the right to health. Although to realise the right to health, instructs Ugandans and government to not only afford health goods, services and devices beyond social, cultural, economic or geographical equivalences, improving Health workers welfare and professional needs is a must - have.

Health entitlements are mentioned in the National Objectives and Directive Principles of State Policy (NODPSP) which are not legally enforceable unless parliament has enacted a law to operationalize ensuring basic medical service and the right to access health services.

Following a Human Rights Based Approach to legislation, it is important for the law to explicitly outline what users and potential users of health care services should expect. Uganda drafted and launched a "Clients' Charter" in 2009. The charter is intended to raise the standard of Health care by empowering the clients and patients to responsibly demand good quality health care from government facilities.

As rightly stated in the Patients' Charter, codifying these rights in the law will bring about the awareness of patients' rights and responsibilities that has been lacking among the population of Uganda. In addition, the patients' charter will motivate the community to participate in the management of their health by promoting

disease prevention, timely referral of patients to health facilities for immediate attention of their health problems and concerns.

The Patient's charter is a policy advancement which is not legally enforceable in the courts of law given the wording and legislation being charged on parliamentarians by article 79 of the 1995 Constitution of the Republic of Uganda as amended.

Proposed Amendment 2: Clause 3 of the Bill

Substitute Section 4 in the Principal Act with the text below;

Section 4. Establishment of Authority or Local Government Health Management Boards

(1) There shall be established an Authority or Local Government Health Management Board in each in each Authority or Local Government which shall be charged with responsibility of overseeing the running of Government health institutions in that Authority or Local Government.

(2) The Minister may make rules as to the composition of the Authority or Local Government Health Management Boards, the convening and holding of meetings of the boards, the procedure thereat, allowances payable to members thereof and the circumstances in which any member shall vacate his membership.

Justification

The District Health Management Boards should be permanent and always in existence to oversee and supervise health care delivery and promotion in the District. The ad hoc arrangement fits into the curative and reactive approach to health which should not be the case. The boards should be of a nature to take care of both curative and prevent health care. They should be permanent to strengthen our health promotion component and not merely respond to diseases and pandemic outbreaks. It will also cure the reflex reaction to respond to pandemics where you end up having a multiplicity of committees to respond to emergencies sometimes with unsuitable heading these Committees like was the case with the District Covid Task Teams which were headed by Resident District Commissioners.

Proposed Amendment 3: Clause 6

We propose that Section 8 of the Parent Act should not be repealed or amended to provide for an ad hoc National Health Advisory Board

Justification:

The Ministry already has an existing Health Policy Advisory Committee (HPAC) in its governance structure. So, it already appreciates the need to have such a board. One wonders why the Ministry had all along neglected to implement this provision of the law and instead went ahead to create parallel structures that have no legal basis.

There is need to have the Board to serve the purpose of advising the Minister to guard against arbitrary exercise of the too much authority given to the Minister under this law, to advise the Minister on technical aspects of Public Health and to verify proposals by the Minister. The issue of resources is valid but if the Board were to be set up and do its work effectively it would save the country money both directly and indirectly through improved health care service delivery. The national board would fit in so well with the local government boards for an effective preventive health care approach.

Proposed Amendment 4: Clause 39

Add subsection (c) in the proposed amendment in clause 39 of the Bill as below;

(c) Before issuing the instruction in subsection (a) above, the Minister shall secure parliamentary approval for the same.

Justification

As per the World Health Organization (WHO) guidance, compulsory vaccination should be the last resort and should only be done after government has identified important ethical considerations and caveats that should be explicitly evaluated and discussed through ethical analysis.

We are alive to the importance of mass vaccination in certain contexts when it may be the only option to deliver the public good of public health but at the same time, we are cautious to the sanctity of the right to consent to medical procedures. As laid down by the WHO, ethical considerations of necessity and proportionality, sufficient evidence of vaccine safety, sufficient evidence of vaccine effectiveness and efficacy, sufficient supply, public trust and ethical processes of decision making should all be satisfied for compulsory vaccination to be allowed.

We therefore propose that if the possibility of compulsory vaccination has to be maintained, the law should require the Minister to draft the Regulations and Guidelines for the same and seek parliamentary approval before they can take effect.

CONCLUSION.

Rt. Hon. Speaker and Honourable Colleagues, we request you to consider and support the Minority Report.

MEMBERS OF THE COMMITTEE ON HEALTH WHO SIGNED THE MINORITY REPORT ON THE PUBLIC HEALTH (AMENDMENT) BILL, 2021.

SN	Name	Signature
1	Batuwa Timothy Lusala	
2	Dr Nicholas Thadeus KAMAGA	