**TEMPLATE FOR CAPTURING SUBMISSIONS ON PUBLIC HEARINGS ON THE NAPHISA BILL, 2016**

| **NAME OF STAKEHOLDER** | **NAPHISA BILL** | **COMMENTS FROM STAKEHOLDER** | **DEPARTMENT'S RESPONSES** |
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| SOUTH AFRICAN MEDICAL RESEARCH COUNCIL | LONG TITLE/ PURPOSE OF THE BILL | That “research” be qualified so to minimise overlap in the mandate of the NAPHISA and the SAMRC. It is suggested it be changed to “conduct related research.” | Research to be conducted in relation to the core mandate of NAPHISA.  The SARMC has defined areas of research in terms of its Act. This limits the opportunity for any overlap. |
| That the following be inserted to the purpose provision of the Bill  To provide for the establishment of the National Public Health Institute of South Africa in order to coordinate, and where appropriate to conduct, disease and injury surveillance; to provide for specialised public health services, public health interventions, training and research directed towards the major health challenges affecting the population of the Republic; "To establish a regulatory regime for co-operation, collaboration and hierarchy of precedence in the areas of work and relationships with Science Councils, Universities and Schools of Public Health” and to provide for matters connected therewith. | The purpose of the bill is clearly articulated and it is not intended to establish a regulatory regime or entity. |
| PREAMBLE | Itisrecommendedthatathirdbulletbeadded as follows:  *“RECOGNISINGtheSouthAfricanMedicalResearchCouncil’sstatutorymandatetoconduct,fund,innovate andoversee healthresearch; anditbeingnottheintention oftheNAPHISAentitytoduplicatethe mandateof theSAMRC;”* | The mandate of NAPHISA is clearly distinct and does not amount to duplication thus it is not necessary to include the proposed amendments in the preamble. |
| Itissuggestedthat“**suchassurveillanceandresearch**”bechangedto“suchassurveillanceandpublic health interventions.” | The mandate of NAPHISA includes conducting research where appropriate hence this cannot be deleted. |
| Itisrecommendedthatafurtherbulletisaddedundertheparagraphbeginningwith**“MINDFUL…”:**Such additional bullettoread:  *“equitablesourcing,utilisationandretentiontothe scarceof skills andlimitedfundingavailable fromco- operatingandcollaboratingentities; and”* | Statement is not appropriate for the purposes of a Bill and does not add value to the operations of NAPHISA. |
| DEFINITIONS | It wouldseemthatthe definitionof **“publichealth”**was in factintended tobe**“**publichealthservice” | NAPHISA is not intended to be a service delivery organisation but surveillance and research organisation but surveillance and disease detection. |
| SECTION 2: ESTABLISHMENTOF NAPHISA | Itisrecommendedthat2(c)bechangedto**“**OccupationalandEnvironmentalHealth**”.**Thisisproposedin ordertoencompassconcernsabouttheimpact ofwaterquality, airquality, climatechange onhealth,itis essential thatappropriate surveillancesystemsaredeveloped. | Occupation health by its nature must include the Environmental factors that influence the health of workers hence there’s no value in including environmental health. |
| Itisrecommendedthat a**6thdivisiondescribedas “Evidence, InformationandPolicy” be**added to thelist.  Thattherewillbeaneed foracross-cuttingdivision toprovidepolicyresearch,cross-cutting health statisticsandsynthesis of informationtoaddress thespecifiedfunctionsof NAPHISA. | Each division of NAPHISA will include issues of evidence, information and policy and this would cut across all five divisions hence there’s no need for a separate division |
| SECTION 3: FUNCTIONSOFNAPHISA | Itisrecommendedthat section3(1)beamended toread as follows:  *“The NAPHISAmust,onits own, or whereanotherpublicentity has concurrentstatutory jurisdiction,then inconsultationwithsuchentity,must-“* | Disagree. The Minister is overall responsible for all public entities, should such a matter arise, this would be resolved by the Minister in consultation with the relevant entities. |
| ItisrecommendedthatEnvironmentalHealthisaddedtothefunctionsoftheNAPHISA. | Occupation health by its nature must include the Environmental factors that influence the health of workers hence there’s no value in including environmental health. |
| GiventhattheNationalHealthResearchCommitteehasthemandatetoco-ordinateresearchinpublic entities,thewordingoffunction(o)shouldbechangedfrom  “**coordinateresearchand,whereappropriate conduct related researchtoinformpolicyand guidelines oncommunicablediseases,non-communicable diseases,cancersurveillance,injuryandviolencepreventionandoccupationalhealth,andmustdevelop processesfordisseminationofresearchfindingsto keystakeholders”**  “utiliseresearchtoinformpolicy andguidelinesoncommunicablediseases,non-communicablediseases, cancersurveillance,injury and violenceprevention and occupationalhealth,and mustdevelop processesfordisseminationto key stakeholders.” | The co-ordination in section (o) relates to the areas of work i.e.communicable diseases, non-communicable diseases, cancer surveillance, injury and violence prevention and occupational health |
| Inrespectof3(3)(z), it is proposed thattheprovisionbealtered from:  “**pay gratuities and pensions to its officers and employees**” to  ***“****paygratuities,formsuchPensionFundentitiesormakesuchcontributionasmaybeallowedunderthe PensionFunds Actand,1957, asamended****.”***  ThereasonforthisproposalisthatPensionFundsActregulatestheformationofPensionFundswhichfunds becomejuristicpersonsontheirownright.Therefore, pensionswouldordinarilybepaidnotbytheEmployer butbythe Pension Fund,based ontheparticularrulesof thefundand the category of membership (DC or DB)tothefund.Thereisnoindication ontheBillthatNAPHISAintendsto, onitsown,registerasPension Fund, hence itcannotbetechnicallycorrecttomakeaprovisionfor NAPHISAtopaypensions. | The payment of gratuities and pensions must be done within the ambit of the applicable legislation and as such there is no need to specifically mention the Act in the Bill |
| **SECTION 5: COMPOSITIONOF THEBOARD** | GiventhedesiredcloseworkingrelationshipbetweentheSAMRCandtheNAPHISA,itisrecommended thatthe Billprovidesfor an SAMRCofficial/employee to serve on the NAPHISA Board. | Appropriate board structure is vital for ensuring good governance. Board members must be appointed on the basis of experience, skills and knowledge required for proper and efficient governing structure not stakeholder representation |
| Giventhereliance oninformationthat willariseintheNHLS, itis recommendedthattheBillprovidesfor an NHLS official/employeetoserveonthe NAPHISABoard. |
| Inrespectof5(1)(a),itisnotclearfromtheBillwhethertheofficialfromtheNationalDepartmentofHealth wouldbeadeliberativeandvotingBoard membership,oranobserverBoardmembership.Itissuggested thatitbeanobservermembershipsoas to beconsistentindemarcatingthedistinctionbetweentheroleof the AccountingAuthority(Board)andthe ExecutiveAuthority(NDoH/Ministry). | In terms of the current composition the official has full fiduciary duties thus expected to act at all times in the best interest of the entity.  The Executive Authority is responsible for governance and management oversight of the entity. |
| Inrespectof5(1)(d)and(e),itisproposedthatadistinctionbedrawnbetweenthesetwoas ExecutiveBoard Members,as opposed totheothersbeingNon-Executiveinthattheyarenotinvolvedin thedaytoday runningof NAPHISA. | There is a distinction between executive and non-executive board members. |
| **SECTION 6: APPOINTMENTOF MEMBERSOFBOARD** | In respectof subsection***6(4),weproposethat, consistentwithotherresearchcouncils,the termof Board membership be3years andthe envisagedreappointmentbelimitedto one furtherterm.*** | New proposal |
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| NATIONAL INSTITUTE FOR OCCCUPATIONAL HEALTH | TAGGING OF THE Bill AS 76 BILL | NAPHISA is classified as section 76 bill which means that it falls within a concurrent jurisdiction between the national and provincial spheres of government, and therefore may affect provinces in varying ways. It is unclear what the concurrent jurisdiction is. | The tagging of the Bill as section 76 bill was done by the joint tagging committee which is of the view that the bill will affect the Provinces.  Schedule 4 of the Constitution listed health services as a functional area of concurrent national and provincial legislative competence. |
| PREAMBLE | **RECOGNISING** that communicable and non-communicable diseases, occupational health, injuries and prevention of violence are important health challenges in South Africa;  Change to:  **RECOGNISING** that communicable and non-communicable diseases, occupational and environmental health and safety, injuries and prevention of violence are important health challenges in South Africa; | This is new issue being raised which was not raised during the comment period. Occupation health by its nature must consider environmental factors to ensure the health of workers. |
| **IN ORDER TO** - provide training, conduct research and support interventions aimed at reducing the burden of communicable and non-communicable diseases and injuries and aimed at improving occupational health,  The provision of training and conducting research is covered in previous bullet. Therefore, the bullet should read as follows  “support interventions aimed at reducing the burden of communicable and non-communicable disease and injuries and at improving occupational and environmental health and safety” | This is new issue being raised which was not raised during the comment period. |
| DEFINITIONS | **"surveillance"** means an information-based activity involving the collection, analysis and interpretation of large volumes of data originating from a variety of sources to predict, observe and minimise the harm caused by outbreak, work place exposure or other risk factorsepidemic and pandemicsituations,  Include “workplace exposures” in the definition for surveillance | This is new issue being raised which was not raised during the comment period. |
| *As the NAPHISA will be dealing with confidential patient and client information and will be required to share information and have access to information which may introduce legal impediments to the collection of information from national surveys of other organisations such as Statistics South Africa, the bill make need to make reference to the protection of personal information Act (PoPI Act) and Promotion of Access to information Act (PAIA) to achieve its objectives.* | Reference can be made to applicable legislation instead of naming, as inclusion of one is the exclusion of the other. |
| SECTION 2(1) ESTABLISHMENT OF NAPHISA | *(c)* Occupational Health;  Should be “occupational and environmental Health and Safety” | This is new issue being raised which was not raised during the comment period. |
| SECTION 3 – FUNCTIONS OF NAPHISA | **3.**(1) should be organised according to specific categories (e.g. coordination, advisory/policy, capacity development, technical, public health intelligence, communication, advocacy) | This is new issue being raised which was not raised during the comment period. |
| *(b)* coordinate, develop and maintain surveillance systems to collect, analyse andinterpret public and occupationaland environmental Health and Safety data in order to guide health interventions; | This is new issue being raised which was not raised during the comment period. |
| *(d)* use public and occupational and environmental Health and Safety information for monitoring and evaluationof policies and interventions; | This is new issue being raised which was not raised during the comment period. |
| *(e)* coordinate and where appropriate providereference laboratory and referral services; | This is new issue being raised which was not raised during the comment period. |
| *(f)* provide leadership and direction to provinces, other government departmentsand local authorities in respect of disease and injury surveillance and outbreak response and occupational and environmental Health and Safety assessments; | This is new issue being raised which was not raised during the comment period. |
| *(g)* strengthen capacity in public ~~and occupational~~ health surveillance in order toreduce the burden of disease and injury; | This is new issue being raised which was not raised during the comment period. |
| *(h)* strengthen the capacity of the workforce in occupational health by ~~developing~~advising regarding the curricula for occupational and environmental Health and Safety;  (i)strengthen cross-border, regional and international collaboration on communicable diseases, non-communicable diseases, injury and violence prevention and occupational and environmental Health and Safety; | This is new issue being raised which was not raised during the comment period. |
| *(j)* strengthen epidemiology and surveillance of communicable diseases, non -communicable diseases, cancer, injury and violence prevention and occupational and environmentalhealth and safety; | This is new issue being raised which was not raised during the comment period. |
| *(m)* collaborate with relevant government departments and government agencies to implement communication strategies on public and occupational and environmental Health and Safety issues and outbreak response; | This is new issue being raised which was not raised during the comment period. |
| *(n)* provide technical support to ~~all~~differentspheres of government and other regulatory bodies, organised labour and employment bodieson surveillance of communicable diseases, non-communicable diseases, cancer, injury and violence prevention and occupational and environmental Health and Safety and mitigation strategies for occupational and environmentalexposures; | This is new issue being raised which was not raised during the comment period. |
| *(o)* coordinate research and, where appropriate, conduct research including operational research to inform policy and guidelines on communicable diseases, non-communicable diseases, cancer surveillance, injury and violence prevention and occupational and environmental Health and Safety, and must develop processes for dissemination of research findings to key stakeholders; | Operational research is a form of research so there is no need to specifically include this |
| *(q)* strengthen advocacy, social mobilisation and partnerships in order to addresscommunicable diseases, non-communicable diseases, cancer surveillance,injury and violence prevention and occupational and environmental Health and Safety; | This is new issue being raised which was not raised during the comment period. |
| *(r) coordinate and where appropriate*provide training and technical information on health issues to health professionals, governmental and regulatory bodies and lay cadres; | This is new issue being raised which was not raised during the comment period. |
| *(t)* maintain accredited reference and specialised laboratories for pathogen/exposure detection, disease and injury surveillance and monitoring, outbreak response and the provision of scientific evidence to prevent and control ~~infectious~~ diseases;  *# specialised laboratories within NAPHISA will not be limited to pathogen detection for communicable diseases but other sources of exposures result in non-communicable diseases as well* | This amendment will detract from the intention of this clause of infectious disease control. |
| *(u)* monitor trends in occupational and environmental Health and Safety and conduct workplace health risk assessments; | This is new issue being raised which was not raised during the comment period. |
| *(w)* produce and distribute reports on health and disease profiles, injuries andviolence and occupational and environmental Health and Safety; and | This is new issue being raised which was not raised during the comment period. |
| *(x) coordinate and where appropriate*provide specialised and referral services related to occupational and environmental Health and Safety andhealth, including—  (i) specialised ~~analytical~~laboratory services to support the practice ofoccupational medicine and occupational hygiene;  *# analytical may be too restricted.*  (iii) analysis and /ormeasurement of ~~selected~~hazardous contaminants from environmental and biological samples collected from the workplace ~~and from~~including workers, and participation in quality assurance schemes for selected hazardous agents;  ~~(iv) analyses of workplace contaminants in biological and environmentalsamples for toxic metals, organic substances, pesticides and persistentorganic pollutants;~~  #***analytical*** *may be too restricted*  ~~(v) specialised testing for bio-aerosols and nano-particles;~~  *#we think that the Bill should no be so prescriptive as exposures may change overtime*  ~~(vi) assessment of occupational allergies;~~ | This is new issue being raised which was not raised during the comment period. |
| Section 3(2) For the purposes of subsection (1)*(e)*, ‘‘referral services’’ means any specialist services that require specialist knowledge, skills and interventions.  #This point may be better placed in the definition section. | This is new issue being raised which was not raised during the comment period. |
| Section 3(3)(c) undertake operational research;  #covered in section 3(1)(o) | This is new issue being raised which was not raised during the comment period. |
| *3 (3) (d)* cooperate with persons and institutions undertaking basic and appliedresearch in the Republic and in other countries by the exchange of scientific knowledge and the provision of access to the resources and specimens available to the NAPHISA; | Rather delete so that the clause refers to all types of research |
| *3(3) (y)* appoint officers and employees at such remuneration and on such conditions ~~as it may deem fit~~ aligned to Department Public Service Administrationsubject to the relevant labour legislation; | Disgree Employees not under Public Service Act |
| Section: Composition of Board | Section 5 (1)(c)(v) occupational andenvironmental health and safety;  #recommend representation from the private sector and worker representation on the board | This is new issue being raised which was not raised during the comment period. |
| **Section 12: Functions of Chief Executive Officer** | 12 (2)(g) the issuing of guidelines regarding the manner in which claims should be handled;  *#: it is unclear which claims are referred to here.* | Refers to claims of expenses from Board members and Staff |
| PUBLIC HEALTH SPECIALIST TRAINING | **SECTION 2: ESTABLISHMENT OF NAPHISA** | The following divisions should be added:   1. Healthcare Process Improvement 2. Health Informatics | This is not the objective of NAPHISA |
| **SECTION 3: FUNCTIONS OF NAPHISA** | **3.1 (e) ‘**co-ordinate reference laboratory and referral services’  This seemingly applies only to referral processes related to laboratory services, and should be broadened to include optimization of actual patient referral systems. | optimization of patient referral systems is not an objective of NAPHISA |
| **3.1 (l) ‘**advise the minister on strategies to improve the health of the population  ‘advise the minister on strategies to improve the health of the population **as well as healthcare service design’** | Health Service design is not within the mandate of NAPHISA |
| **3.1 (r)** ‘provide training and technical information on health issues to health professionals, governmental and regulatory bodies’  ‘provide training and technical information on health **and health systems issues** to health professionals, governmental and regulatory bodies’ | Health Service design is not within the mandate of NAPHISA |
| **3.1 (y)** To analyse and improve healthcare service delivery via the use of Systems Thinking, Lean Management, and Plan-Do-Study-Act approaches. | Health Service design is not within the mandate of NAPHISA |
| SOUTH AFRICAN CIVIL SOCIETY COALITION FOR WOMENS, ADOLESCENTS AND CHILDREN’S HEALTH | **SECTION 5: COMPOSITION OF THE BOARD** | SACSoWACH proposes the addition of a women, child and adolescent health expert to join the composition of the NAPHISA board. The addition of a specific expert on adolescent, child and women’s health is cross-cutting in nature and will ensure the holistic delivery of health services. | New issue. |
| PROF. WELILE SHASHA | **SECTION 3 (1)** | The emphasis on data systems, their maintenance as well as processes for data dissemination and management is significant. There is an inadequate coverage or recognition within the Institute’s proposed functions and roles of the specific mechanisms that will be used to facilitate the coordination, dissemination, research and disease surveillance work in alignment, for instance, with the South African government’s open data7 commitments.  The Bill does not adequately address modern data considerations – particularly in relation to information and communication and technology (ICT) needs and management of vast national public health and disease surveillance trends.  the Bill should, within its governance structures incorporate such expertise possibly through the inclusion of an ICT or open data expert. | This is an operational matter the ICT policy is essential for all entities and must be developed by the Board and implemented by management |
| THE PUBLIC SERVICE ACCOUNTABILITY MONITOR | **PREAMBLE** | The NAPHISA bill does not mention health promotion in the preamble and as such the preamble should recognise the importance of health promotion as a strategy to improve health of populations. | NAPHISA is not responsible for Health Promotion |
| **SECTION 2: ESTABLISHMENT OF NAPHISA**  **Environmental and Occupational Health** | The current NAPHISA Bill does not adequately consider the provisions of Section 24 of the Constitution nor of the above-mentioned policy. This could potentially translate to significant gaps in relation to research, monitoring and overall policy coordination within the Institute and between the Institute and other government departments. | NAPHISA is not a frontline health service delivery organisation |
| **SECTION 3(1)(W)**  **SECTION 3(1)(L)** | It is recommended that the Bill require that these reports (health and disease profiles, injuries and violence; and occupational health) be produced according to the specific divisions and distributed on public platforms on regularly - at least quarterly, in order to achieve the objective of surveillance. It would also be helpful if the Act provide specific sub-headings in terms of what information these reports would contain. These sub-headings should be determined in consultation with each division. | Public entities are required to produce reports regularly and reports are made public. |
| **SECTION 3(1)(W)**  **SECTION 3(1)(L)** | There is no mention of whether these recommendations (control measures for disease outbreaks: mitigating risks and hazards of injury and violence, cancer and workplace exposures) are of a binding natureor how the National Department of Health should implement such the recommendations and – whether any obligations are placed on the relevant Department to implement, consider or explain non-implementation of same recommendations. | It would be inappropriate for such recommendations to be binding since there are a number of other factors which NDOH must take account of before implementing any recommendation. |
| **SECTION 4: GOVERNANCE AND CONTROL OF NAPHISA** | It is also advisable for the Bill to outline some basic eligibility criteria of the community members on the panel in order to ensure greater representation of marginalised groups and those advocating for the rights of women and children in particular. It may be of benefit to stipulate that the public representatives must have a clear track record of community engagement. | Community representatives are selected based on the extent and nature of community involvement. There is defined process for the selection of Board members. |
| Section 4 of the Bill states that the board is the accounting authority of the NAPHISA, and that the CEO is the administrative head as well as a board member. | The CEO is a member of the Board by virtue of his/her position. The CEO is accountable to the Board. |
| The recommendation in this respect that an oversight body be created in order to supervise expenditure within the Institute and to provide disciplinary proceedings if funds are spent in a way inconsistent with the Act. | NAPHISA is a public entity and as such is accountable to the National Department |
| **SECTION 5: COMPOSITION OF THE BOARD** | There is a clear need for the Bill to provide more opportunities for members of the public to contribute to the NAPHISA.  This could be achieved through the inclusion of at least two members of the public, at least one ICT expert – possibly a civic technology expert and at least one member of civil society with a proven track record in health activism, research and community mobilisation. | Section3(1)(q) addresses the issue – makes reference to the strengthening advocacy, social mobilisation and partnerships. |
| HEALTH PROMOTION AND DEVELOPMENT FOUNDATION NETWORK | **SECTION 3: FUNCTIONS OF THE BOARD** | One of the functions of NAPHISA should be to work with civil society organisations towards the establishment of an independent health promotion foundation. | NAPHISA is not intended to be a health promotion organisation |
| **SECTION 5: COMPOSITION OF THE BOARD** | An expert in health promotion should be a member of the Board. | NAPHISA is not intended to be a health promotion organisation |