**PUBLIC COMMENTS ON NAPHISA BILL**

| **ENTITY/ STAKEHOLDER** | **COMMENTS** | **COMMENTS INCORPORATED INTO THE BILL** | **REASONS FOR NOT INCORPORATING STAKEHOLDER COMMENTS** |
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| **NATIONAL INSTITUTE FOR OCCUPATIONA HEALTH** | 1.  To request the honourable Director–General and the honourable Ministry of Health to reconsider the composition of the various divisions within the newly established National Public Health Institute of South Africa (NAPHISA)1 aimed to conduct public health services and interventions, training and research rightly focused on major public health challenges affecting the citizens of South Africa which also includes workers in both the formal and informal sectors forming the backbone of the economy. Hence the exclusion of the Occupational Health and Safety from NAPHISA will have a negative impact on effectively achieving the sustainable development goalsfor which decent work is part of. The main benefit of the correct positioning of the NIOH and its future sustainability will afford the Department of Health to exercise control over – and ensure a reduction of occupational health disease and workplace injuries in the country. | Occupational Health to be included as a 5th institute |  |
|  | 2.  The NAPHISA bill excludes the NIOH as one of its divisions albeit the Minister of Health’s response to parliamentary question 351 (NW378E) by Dr WG James was to disaggregate the National Institute for Communicable Diseases (NICD), NIOH and National Cancer Registry (NCR) from the NHLS due to the NHLS’s persistent financial problems. It was categorically stated that the original structure of the NHLS was conceptually and structurally problematic as it combined routine clinical diagnostic services with institutions mandated to deal with specialised services such as outbreak response, epidemiological surveillance, monitoring and categorisation of diseases (including occupational diseases) and prevention and control. While the National Health Council agreed on the disaggregation of the NICD, NIOH and NCR only the NICD and NCR were re-aggregated as entities of NAPHISA and there is still no clarity on NIOH’s exclusion. | NIOH has now been included in NAPHISA |  |
|  | 3.  There is a great disparity in access to health care and public health initiatives between developed and developing nations. The disaggregation of institutes providing a public health services fails to harmonise services and this gap can be bridged so that the country can achieve its health priority goals, ensuring an equitable health system which caters for all citizens including the workforce. The restrictiveness of ‘public health’ deprives the nation of a comprehensive healthcare package needed as over three quarter of the both the formal and informal workforce works in high risk occupations with insufficient protection and the informal sector lacking access to occupational health services. This shortfall in prevention and protection leads to 2.3 million deaths among workers globally on a yearly basis. New risks and hazards are continuously emerging due to new changes in: technology transfer, demography, migration and social dynamics and economic structure. The NIOH epidemiology Section conduct surveillance activities of occupational diseases and uses the surveillance system to collect, analyse and interpret data which helps with interventions. |  |
|  | 4.  The definition of “public health” in the bill is unclear as it’s appears to exclude occupational health and hence requires clarity. Key definitions from reputable sources defines public health as the protection of the health of the whole population of a state and incorporates the interdisciplinary approaches of epidemiology, biostatistics and health services. Modern public health practice requires multidisciplinary teams of environmental health, community health, behavioural health, health economics, public policy, insurance medicine and occupational health and safety among others. |  |  |
|  | 5.  It is recommended that the current bill be amended to include NICD, NCR and NIOH as originally conceptualised. This would be inline with the international best practice for public health institutes for example CDC in the US with NIOSH as its occupational health and safety arm which is functioning effectively. The inclusion of NIOH in NAPHISA will further strengthen collaboration and networking between occupational health and general health services, government (national and provincial) on occupational health and safety issues. Strengthen partnerships with the provinces, other stakeholders, the neighbouring regions in the African continent and international community in prevention and control of occupational health related diseases. | NICD, NCR and NIOH have now been included in NAPHISA |  |
|  | 6.  It is further recommended that the following points be considered for incorporation in the Bill. |  |  |
|  | 6.1.  Page 5, section:- preamble: Recognising that… “that communicable and non-communicable diseases, occupational health, injuries and prevention of violence are important health challenges in South Africa. | Occupational Health has been incorporated into the Bill |  |
|  | 6.2.  Page 6, section:- and in order to: it is recommended that the following be included, “provide training, conduct research and support interventions aimed at reducing the burden of communicable and non-communicable diseases and injuries and at improving occupational health”. |  |
|  | 6.3.  Page 7, section:- establishment of NAPHISA: its is recommended that Occupational Safety and Health be included as a 5th institute |  |
|  | 6.4.  Page 7, section: NAPHISA must:- it is recommended that the following functions pertinent to the wellbeing of an important proportion of the population (workers): |  |
|  | 6.4.1.    “strengthen epidemiology and surveillance of communicable diseases, non- communicable diseases, injury and violence and occupational health and safety” |  |
|  | 6.4.2.    “monitor trends in occupational health and conduct workplace health risk assessments”. |  |  |
|  | 6.4.3.    “support the monitoring of workplaces to assess worker exposures to workplace hazards”. |  |
|  | 6.4.4.    “provide technical support to all spheres of government and other regulatory bodies on surveillance of communicable diseases, non-communicable diseases, injury and violence prevention and occupational health and mitigation strategies for occupational exposures.” |  |
|  | 6.4.5.    “To strengthen the capacity of the workforce in occupational health by developing the curricula for occupational health discipline in Universities and provide training and disseminate technical information to health professionals, occupational health service providers, practitioners and other key stakeholders.” |  |
|  | 6.4.6.    “conduct research to inform policy and guidelines on communicable diseases, non-communicable diseases, injury and violence prevention and occupational health and develop processes for dissemination of research findings to key stakeholders”. |  |
|  | 6.4.7.    To participate in research independently or collaborate with government and academic and/or scientific institutions and others. |  |
|  | 6.4.8.    “strengthen cross border, regional and international collaboration on communicable diseases, non-communicable diseases, injury and violence prevention and occupational health”. |  |
|  | 6.4.9.    “strengthen advocacy, social mobilisation and partnerships for addressing communicable diseases, non-communicable diseases, injury and violence prevention and occupational health”. |  |
|  | 6.4.10.  “produce and distribute reports on health and disease profiles, injuries and violence and occupational health” |  |
|  | 6.4.11.  “provide specialized and referral services related to occupational safety and health including specialized analytical laboratory services to support the practice of occupational medicine and occupational hygiene; consultations on the appropriate collection of samples, measurement of selected contaminants from environmental and biological samples collected from the workplace and from workers, and participation in quality assurance schemes for selected hazardous agents; analyses of workplace contaminants in biological and environmental samples for toxic metals, organic substances, pesticides and persistent organic pollutants; specialized testing for bio-aerosols and nano-particles; assessment of occupational allergies; advise on preventing occupational diseases and occupational injuries; conduct workplace visits and risk assessments of hazardous factors; and provide pathology services for occupational health”. |  |
|  | 6.5.  Page 12, section:- composition of the board: recommended that the board include “one member who has special knowledge in occupational health”. | Occupational Health has been incorporated into the Bill |  |
|  | 6.6.  Page 24, section:- transfer of employees, assets and liabilities from NHLS to NAPHISA: it is recommended that “A person who is employed by the NHLS established by section 3 of the NHLS Act, 2000 (Act No. 37 of 2000), immediately before the commencement of this Act and who was transferred to the NHLS in terms of item 2 of the Schedule to the said Act by virtue of him or her being an employee of the National Institute for Virology or the Department of Health must, in accordance with the Labour Relations Act, 1995 (Act No. 66 of 1995), and any applicable collective bargaining agreement with organised labour, be transferred to NAPHISA on the date when this section takes effect.” |  |  |
| **SOUTH AFRICAN MEDICAL RESEARCH COUNCIL** | The SAMRC is of the opinion that since these statutory bodies’ functions overlap, it is important that the above-mentioned questions are answered for clarity prior to the establishment of the NAPHISA. Although it has been noted from the Bill that the NAPHISA will, in addition to disease surveillance, also render health services directly to the public, which is not the core role of the SAMRC, it is still necessary to establish the actual positioning of both national entities. While it is apparent that the government aims to respond to the public’s health needs, it is still unclear how these national entities which are both science-based will operate from the limited resource allocation and budgets as they are regulated and funded by the same body. | No | This is incorrect, NAPHISA’s functions are listed in the Bill and the SAMRC in the Act and are not the same |
|  | If regard is had to the objects, powers, functions and duties of the SAMRC and those of the NAPHISA, it would be advisable for there to be a clarification for the Minister of Health, in the identification and authorisation of the envisaged institution, to consult with and be guided by the SAMRC. | No | The Minister of Health will consult on regulations, not just with the MRC but publicly. the minister is mandated to be guided by the MRC on matters that are explicitly contained in the MRC Act |
|  | It is unclear from the current drafting of the NAPHISA Bill, whether or not the operations of the NAPHISA will be excluded from the ambit of the relevant provisions of the National Health Act. |  | There is no such intent stated or implied in the Bill |
|  | 3.1 The SAMRC is of the view that the NAPHISA Bill must be examined in close association with the SAMRC Act and an analysis of objectives of the NAPHISA Bill and those of the SAMRC is undertaken: | Yes |  |
|  | a) The NDoH may consider amending the NAPHISA Bill or parts thereof to ensure that the functions of both entities are well articulated, maximised and preserved; | Noted | The functions of both entities are well articulated in their respective legislation |
|  | b) The Minister of Health may provide guidance with respect to the above-mentioned questions relating to the functions and future of the SAMRC; | Noted. | The functions of the SAMRC as contained in the MRC act do not change. |
|  | c) It would be desirable to assess whether there has been any noted improvement on the top 10 diseases leading to death in the Republic attributed to the SAMRC through its research and innovation. | No. | Not relevant to NAPHISA |
|  | d) Perhaps conduct a review to determine whether there has been any measurable impact of the use of the treatment regimens or other interventions developed by the SAMRC in addressing the top 10 causes of death thereby reducing the burden of disease in the Republic. | No. | Not relevant to NAPHISA |
|  | e) As the main purpose of the NAPHISA seems to be surveillance, it may well be that the most tenable approach would be to collaborate with a surveillance unit within the SAMRC. This could include all the areas that cover surveillance currently housed within the SAMRC as well as additional areas that can be added as and when funds permit. In this way the NDoH/Ministry of Health could rapidly address the current deficits and avoid massive duplication of costs with additional Boards, administrative staff and systems, buildings, etc. which may not be affordable in the current constrained fiscal environment. | Noted. | MRC is not mandated in terms of the MRC Act as being responsible for surveillance. one of the objectives of the NAPHISA Bill is to bring together functions and key activities that are currently poorly coordinated and not mandated. |
|  | f) If necessary, such a unit within the SAMRC could eventually form a new entity as and when it becomes affordable and the need for a separate entity continues to exist. | No. | Not relevant to NAPHISA |
|  | **THE BILL** |  |  |
|  | To provide for the establishment of the National Public Health Institute of South Africa in order to conduct disease and injury surveillance necessary to rapidly respond to national health outbreaks; and | No | Limits the functions of NAPHISA, which will result in continue fragmentation |
|  | To provide specialised rapid public health responses including interventions and training necessary to avert, control and eradicate the relevant health outbreak affecting the population of the Republic; and | No. | Limits the functions of NAPHISA, which will result gaps in the mandate for specialised clinic response. NAPHISA is not established to be limited to an emergency response unit |
|  | 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 | No. | Limits the functions of NAPHISA, which will result in continuous fragmentation |
|  | **Preamble**  ·   establishment of a single national public entity to provide public health services to the country that performs critical public health functions and that requires a high level of coordination across functions, such as surveillance, outbreak investigations and disease control; | No | Not relevant to the NAPHISA Bill. The SAMRC view NAPHISA as a threat and as such are commenting with the view to limit the scope of NAPHISA not recognising that this will still create a legislative gap as the MRC Actdoes not provide the MRC with the mandate for the functions that are being removed. |
|  | ·   determination of regulatory regimes conducive for the establishment of cooperative agreements and collaborative relationships and hierarchy of precedence, between the single public health entity and the South African Medical Research Council, which may also include other Science Councils, Universities and Schools of Public Health to define clear roles in public health services and surveillance and realise interdependencies. | No. | This comment is addressed in the functions of NAPHISA and does not need to be included in the preamble |
|  | And in order to:   * provide support, expertise and advice to government to achieve improvements in the health of the population; and * to align the works and resources of entities and institutions providing public health services; and | No. | not relevant to the NAPHISA Bill. the SAMRC view NAPHISA as a threat and as such are commenting with the view to limit the scope of NAPHISA not recognising that this will still create a legislative gap as the MRC Act does not provide the MRC with the mandate for the functions that are being removed. |
|  | 2.  (1) There is hereby established a juristic person to be known as the National Public Health Institute of South Africa, comprising divisions that conduct surveillance of, and specialised interventions in respect of national outbreaks that require rapid responses for the following: | No | Not relevant to NAPHISA |
|  | **Functions of NAPHISA**  **3.** (1) NAPHISA must—  *(a)* promote co-operation between the Republic and other countries with regard to the epidemiological surveillance and management of outbreaks of diseases and injuries related to acts of disaster; |  | Not relevant to the NAPHISA bill. The SAMRC view NAPHISA as a threat and as such are commenting with the view to limit the scope of NAPHISA not recognising that this will still create a legislative gap as the MRC act does not provide the MRC with the mandate for the functions that are being removed. |
|  | *b)* open itself to promoting co-operation and collaboration with the South African Medical Research Council (SAMRC), Science Councils and Universities with regard to disease surveillance and control; | No | NAPHISA will collaborate with all relevant institutions (not only the SAMRC) not relevant to the NAPHISA Bill. The SAMRC view NAPHISA as a threat and as such are commenting with the view to limit the scope of NAPHISA not recognising that this will still create a legislative gap as the MRC act does not provide the MRC with the mandate for the functions that are being removed. |
|  | (c) in collaboration with the SAMRC, co-ordinate, develop or maintain surveillance systems to collect, analyse, and interpret health data to guide health interventions; | No |
|  | *(d)* in collaboration with the SAMRC, use surveillance data to advise on setting health policies, priorities and planning; | No |
|  | *(g)* provide leadership and guidance to provinces and local authorities in disease and injury surveillance and outbreak response; | No |
|  | *(h)* in collaboration with the SAMRC, strengthen capacity of the health workforce in health surveillance to reduce the burden of disease and injury; | No |
|  | *(j)* in collaboration with the SAMRC, strengthen epidemiology and surveillance of communicable diseases, non-communicable diseases, cancer and injury and violence prevention; | No |
|  | *(k)* in collaboration with the SAMRC, advise the Minister on strategies to improve the health of the population; | No |  |
|  | *(n)* provide technical support to all spheres of government and other regulatory bodies on surveillance of outbreaks of communicable diseases, non-communicable diseases, cancer, injury and violence prevention; | No |
|  | *(o)* in collaboration with the SAMRC, co-ordinate and integrate research to inform policy and guidelines on communicable diseases, non-communicable diseases, cancer surveillance, injury and violence prevention and develop processes for dissemination of research findings to key stakeholders; | No |
|  | *(q)* provide training and technical information on public health service issues to public health service professionals, government and regulatory bodies; | No |
|  | (3) NAPHISA may-  a) liaise with any other regulatory authority or institution and may, without limiting the generality of this power, request the necessary information from, exchange information with and receive information from any such authority or institution in respect of matters of common interest; or | No |
|  | c) enter into a collaborative agreement with the SAMRC that describes the scope of the work, and co-operation between, the two organisations as they relate to the remit of medical and health research by the NAPHISA; | No |
|  | d) undertake research in the realm of infectious disease outbreaks, on its own or in association or partnership with science councils and tertiary education institutions; | No |  |
|  | bb) establish and participate in pension schemes in consultation with the Minister of Finance, medical aid schemes and other incentive schemes for its officers and employees, and appoint trustees and other officials for such schemes, in accordance with such law as may be applicable at the time to such contemplated scheme; | No | There is no need to specifically stated as this will be in accordance relevant Laws in the Republic |
|  | **Committees of Board**  **10.** The Board may appoint one or more committees consisting of Board members and expert advisory committees consisting of members other than members of the Board, to assist it with the performance of its functions and exercise of its powers. The Board shall retain the power to determine the scope of works, and shall have the power to ratify or approve any such actions or recommendations as may be made by any such committee. | No | The responsibility rest with the board. |
|  | **Appointment of Chief Executive Officer**  **11.** (1) The Board must, in consultation with the Minister, determine the credentials criteria for the appointment of the Chief Executive Officer. Upon determination of the relevant credentials criteria, the Board must recruit and appoint a fit and proper and suitably qualified South African citizen as the Chief Executive Officer of NAPHISA.  (2) The Chief Executive Officer holds office for a term of five years and may be reappointed for one more additional term. | No | The wording in this section should be consistent with the recent amendments i.e. the OHSC |
|  | **Transfer or secondment of certain persons to or from employ of NAPHISA**  **14.** (1) A person who is in full time employ of the State or of an institution receiving financial aid from the State may, with his or her consent,the consent of the relevant institution receiving financial aid from the State and subject to the laws governing the State owned entities, and the approval of the Chief Executive Officer, be transferred or seconded to the employ of NAPHISA. | No | Not relevant to the NAPHISA Bill. The SAMRC view NAPHISA as a threat and as such are commenting with the view to limit the scope of NAPHISA not recognising that this will still create a legislative gap as the MRC Act does not provide the MRC with the mandate for the functions that are being removed. |
|  | (2) A person who is in the employ of NAPHISA may, with his or her consent, consent of NAPHISA and subject to the laws governing the state owned entities and the approval of the Chief Executive Officer, be transferred or seconded to the employ of the State or an institution receiving financial aid from the State. | No |
|  | (3) A person who is in the employ of another institution may, with his or her consent, consent of the other institution and subject to the laws governing the transferring or receiving entities and the approval of the Chief Executive Officer of that institution be transferred or seconded to the employ of NAPHISA. | No |
|  | (4) A person who is in the employ of the NAPHISA may, with his or her consent, consent of NAPHISA and subject to the laws governing NAPHISA and that other entity and the approval of the Chief Executive Officer, be transferred or seconded to the employ of another institution. | No |
|  | **Intellectual property rights**  **15.** (1) The rights in respect of any trademark, invention or design of any works eligible for protection under the Copyright Act, Designs Act or the Patents Act, which work is by an employee of NAPHISA in the course and scope of the employee’s employment, vests in NAPHISA. | No |  |
|  | **Transfer of certain assets to NAPHISA**  **19.** Any immovable property belonging to the State, excluding state agencies constituted and conferred with juristic personality detached from that of the State, may, on such conditions as the Minister with the concurrence of the Minister of Finance may determine, be transferred to NAPHISA in order to enable NAPHISA to perform its functions. |  |  |
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