SPEECH BY PROF. GEORGE A. O MAGOHA, BS.MBS, CHAIRMAN, MEDICAL PRACTITIONERS AND DENTISTS BOARD DURING THE JULY 2013 FULL BOARD TRIBUNAL AT UNIVERSITY OF NAIROBI, SCHOOL OF MEDICINE – BOARD ROOM ON JULY 22, 2013
Members of the Board,

Counsels representing various Medical & Dental practitioners and Health institutions

Representatives from various Professional Associations including:

- Kenya Medical Association
- Kenya Dental Association
- Kenya Medical Practitioners and Dentists Pharmacists Union
- Representatives from Nursing Council of Kenya
- Clinical Officers Council, Pharmacy and Poisons Board
• Accredited observers from the EAC Partner States namely:
  • The Uganda Medical & Dental Council
  • The Tanganyika Medical Council
  • The Rwanda Medical Council
  • Burundi Medical & Dental Council
  • the IFC & World Bank Group,
  • Members of the press
Ladies and Gentlemen, I take this opportunity to welcome you all to the official opening of a five-day Full Board Tribunal hearings constituted under Section 20 of the Medical Practitioners and Dentists Act, Cap 253.

This is the last stage of a process that begins when members of the public or practitioners lodge complaints of alleged medical malpractice or otherwise with the Board. Allow me, for the benefit of those who may have raised concerns over the delay in determining their cases state, that there are different
stages in carrying out an inquiry over complaints lodged with the Board, which includes:

a) Whenever a complaint is lodged, the Board writes to the mentioned Institution, medical or dental practitioner requesting for a response, a certified copy of the entire patient’s file, statements of all concerned staff who were involved in the care and management of the patient/complainant and any other relevant documents. The demand requests for the documents within a period of 7 to 21 days (most responses have taken months to come by and in some cases, years);
b) Upon receipt of the response from the institution, medical or dental practitioner or the complainants, the file containing the complaint is forwarded to the Preliminary Inquiry Committee (PIC). Thereafter, the committee chairman in consultation with other committee members allocates the file to a specialist or a specific expert within the Board or Professional Association, to review and study the file within the Board’s premises and thereafter prepare a written report;

c) Thereafter, the report is presented to the Committee and it is deliberated by members of the
PIC. The inquiry, where necessary, involves an interview wherein the complainant and the concerned institution or practitioner and witnesses are invited.

d) PIC members discuss the case after examining all documents and, where necessary, hearing the affected persons before making its findings and recommendations to the Board.

e) The findings and recommendations of the PIC are thereafter presented by the PIC chairman to the full Board. The full Board then deliberates the PIC
findings and recommendations and either ratifies or gives further directions on the recommendations.

f) If the Board finds that a case has merit and requires reference to Full Board Tribunal, concerned parties are informed in writing and the preparation of the Tribunal begins.

Ladies and Gentlemen, the matters scheduled for inquiry this week have taken that long process and it is our hope that all parties will avoid unnecessary
adjournments in order to enable the Board dispense the matters with the requisite speed.

Let me say that we have purposed to hold the following three (3) inquiries and my members are equal to this task which may be deemed by others as onerous:-

a. Tribunal Case No. 5/2013: James Nzau on behalf of his sister, the late Jane Mutinda –vs- Dr. David Kihiko on behalf of Kitui District Hospital, Dr. Adelaide Barasa, Dr. Allan Owino and Dr. Leonard Okoko.
b. Tribunal Case No. 6/2013: John Paul Odero on behalf of his daughter, the late Sybil Masinde Odero –vs- Dr. Bartilol Kigen, Dr. Gerald Moniz and The Nairobi Hospital.

c. Tribunal Case No. 7/2013: Joan Akinyi Keno on behalf of her daughter, the late baby Joy –vs- Dr. Paul Kithinji and Victory Hospital.

I am advised by our legal team that the concerned Respondents have retained Counsels. While this is appreciated as their Constitutional right, it is my desire that the Counsels involved will assist in reaching
the overriding objective and giving justice to all parties. I wish to state that even as we sit in the judgement of our colleagues and peers, we must fairly and justly determine whether the Respondents breached rules of the profession; both written and unwritten.

As regards the Institutions, Rule 10(1) of the Medical Practitioners and Dentists (Private Medical Institutions) Rules 2000 that gives this Board powers to conduct an inquiry in regard to institutions in Kenya. We propose to exercise this power fairly. I am advised by the advocate assisting the Tribunal that
fairness is adherence to the rules of natural justice. We shall adhere to those rules and will discharge our duty diligently and expeditiously without fear or favour. We are convinced that unmerited delays visit injustice on other parties and so we shall not brook delay or procrastination, and we request all parties to share the same spirit.

Let me remind all present that, we on our part as members of the medical profession have taken the Hippocratic Oath and intend to keep that oath and
shall jealously protect the confidentiality of the parties involved in the matters coming up before this Tribunal.

We also make a tacit recognition that for Respondents, it is better to be judged by their equals in training and skills; for then, they too stand a fair chance of having their positions vindicated if the facts lead in that direction.

Finally, Ladies and Gentlemen, in discharging our duties we shall bear in mind the interest of the parties before us, the interest of the patient, the interest of
the medical and dental practitioners and health institutions before us and the interest of the Country at large while ensuring we strike a balance with the patient’s interest, being supreme.

I now have the pleasure to declare these proceedings open and direct that the proceedings shall commence in camera, as per our Rules and Procedures, with each matter being held at the allocated time.
The Tribunal is now open.

Thank you