

# **NYERI COUNTY HEALTH SERVICES BILL, 2015**

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## **NYERI COUNTY HEALTH SERVICES BILL, 2015**

A Bill for an Act of the County Assembly of Nyeri to give effect to Article 43 (1)(a) of the Constitution and provide for implementation of section 2 of Part 2 of the Fourth Schedule to the Constitution on county health services and for connected purposes.

**ENACTED** by the County Assembly of Nyeri as follows-

### **PART I- PRELIMINARY**

#### *Clauses*

##### Short title

1. This Act may be cited as the Nyeri County Health Services Act, 2015.

##### Interpretation

2. In this Act, unless the context otherwise requires-

“Board” means the Board of hospital established under Section 9;

“Center of excellence” means a facility that adopts and maintains quality service delivery, modern management practices, efficient and effective practices and a model for learning to other health related specialized units. Such standards will be in accordance with internationally accepted norms and standards including best practices

“Chief Officer” means the Chief Officer responsible for county health services;

“Committee” means the Committee of health center or dispensary established under section 10;

“County Assembly” means the County Assembly of Nyeri;

“County Director” means the county director responsible for county health services established under section 6

“County health management team” means the county health management team established under section 21;

“County Health Sector Stakeholders Forum” means the County Health Sector Stakeholders Forum established under section 28;

“Department” means the department responsible for county health services

“Emergency treatment” refers to necessary immediate health care that must be administered to prevent death or worsening of a medical situation

“Executive Secretary” means the member of the County Executive Committee responsible for county health services;

“Health facility” for the purposes of this Act means a health facility as the whole or part of a public, faith-based or private institution, building or place, whether for profit or not, that is operated or designed to provide in-patient or out-patient treatment, diagnostic or therapeutic interventions, nursing, rehabilitative, palliative, convalescent, preventative or other health service

“Hospital Superintendent” refers to an officer who plans, directs or coordinates medical and health related services in the hospital

“Medical supplies” refers to and includes products or materials used in the delivery of health care services namely pharmaceuticals, non pharmaceuticals, nutraceuticals, vaccines, , food and food supplements and therapeutic antisera, medical equipment and devices, medical appliances and materials, health technologies, laboratory supplies and reagents, dental materials, hospital consumables, and any other material or equipment as may be necessary for the delivery of health care services in the county;

“Sub county health management team” means the sub-county health management team established under section 22.

**Purpose of the Act.**

2. The purpose of the Act is to provide for the implementation of section 2 of Part 2 of the Fourth Schedule to the Constitution of Kenya 2010 on the functions and powers of County Governments, and to provide for a legal framework for:-

(a) Health for development, as per Vision 2030 and beyond, to recognize the effect of other sectors on health;

(b) Facilitating realization of consumer health rights in accordance with article 46 of the Constitution.

## **Principles of health service delivery.**

4. The following principles shall guide the implementation of this Act-

- (a) The County Health department will adopt the Primary Health care approach and principles. Health services shall be available, accessible, acceptable, affordable and of good quality and standard;
- (b) Health rights of individuals shall be upheld, observed, promoted and protected; and
- (c) Provision of health services shall focus on strengthening health systems to improve health outcomes.
- (d) A 'Health in all sector Policies' approach will be applied in implementation of this Act

## **PART II – HEALTH SERVICES MANAGEMENT**

### *Functions of the Department.*

5. The Department responsible for county health services shall -

- a) Coordinate the provision of preventive, promotive, curative, rehabilitative and palliative health services;
- b) Develop county health policies, strategies, laws and programs and coordinate their implementation;
- c) Liaise with regulatory bodies in the enforcement of norms, standards and best health practices
- d) Coordinate implementation of national health policies and laws at the county level;
- e) Coordinate public and private sector health programs and systems at the county level;
- f) Ensure compliance with norms and standards for health facilities and health services;
- g) Ensure the implementation of rights to health specified in the Bill of Rights, and more particularly the progressive realization of the right of all to the highest attainable standard of health including reproductive health care and the right to emergency treatment;

- h) Develop and implement measures to promote equitable access to health services to the entire population, with special emphasis on eliminating the disparity in realization of the objects of this Act for the minority, special groups, marginalized and disadvantaged populations;
- i) Manage day to day human resources under the Department;
- j) Facilitate capacity building and professional development for health service personnel;
- k) Promote public private partnership to ensure efficient and harmonious development in the common interest to work towards progressive achievement of the right to health;
- l) Oversee the management and governance of county health facilities and facilitating their development;
- m) License and control undertakings that sell food to the public
- n) Control the management of cemeteries, funeral homes and crematoria
- o) Develop county policies and laws for control of health risk factors and initiating relevant mitigating measures and programs in collaboration with other agencies;
- p) Ensure and coordinate the participation of communities in the governance of health services so as to promote a participatory approach in health care governance.
- q) Promote realization of health rights;
- r) Procure and manage medical supplies and commodities;
- s) Develop and manage the county health referral system including ambulance services;
- t) Ensure that the purpose of this Act and the principles of health services provided under section 4 are realized;
- u) Facilitate registration, licensing and accreditation of health service providers and health facilities respectively according to standards set by the national ministry responsible for health and relevant regulatory bodies;
- v) Coordinate and conduct high quality and ethical research and ensure dissemination of research findings;
- w) Manage solid waste and guarantee environmental sanitation;

- x) Coordinate health activities in order to ensure complementary inputs, avoid duplication and provide for cross-referral, where necessary to and from institutions within the county and between counties;
- y) Provide for the development, strengthening and expansion of a county health information management system;
- z) Establish a medical emergency account;
- aa) Carry out any other function for realization of the purpose of the Act and as may from time to time be assigned by the Executive Secretary.

### **Office of the county director of Health**

6. (1) There shall be established the office of the County Director of health who shall be the technical advisor on all matters of health in the County.

(2) The County Director of health shall be recruited through a competitive process in conformity with the rules and regulations set from time to time by the County Public Service Board in consultation with the executive secretary.

(3) The County Director of health shall-

- (a) Be the technical advisor on all matters relating to health within the County;
- (b) Be the technical advisor to the Executive Secretary;
- (c) Supervise all health services within the County;
- (d) Promote the management, prevention and control of communicable and non-communicable conditions;
- (e) Report periodically to the national ministry of Health on all public health occurrences including disease outbreaks, disasters and any other health matters; and
- (f) Perform any other duties as may be assigned by the executive secretary;

### **Human resources for health**

7. (1) The County Public Service Board shall, in consultation with the Executive Secretary, strengthen the existing norms and standards as envisaged in the Kenya Human Resources for Health (HRH) policy.

(2)The County Public Service Board will in consultation with the chief officer establish offices and appoint such staff under the Department, including county health facilities, in accordance with the County Governments Act for implementation of this Act.

(3) Notwithstanding subsection (2), a county health facility may, in consultation with the Chief Officer, recruit such staff as are necessary on short term or part-time basis for the purposes of providing essential services.

(4)The county department shall implement a needs-based approach in health workforce training, recruitment and deployment .

(5)The county may engage volunteers in delivery of health services from time to time guided by the guidelines developed by the executive secretary on volunteerism.

### **Classification of County Health Facilities.**

**8.** (1) The classification of county health facilities shall be as set out in the first Schedule.

(2) The Executive Secretary shall, in consultation with the County Executive Committee prescribe the category applicable to each county health facility described under subsection (1)

(3)Each health facility will organize and manage the delivery of expected services based on its level of care as per the Kenya Essential Package for Health (KEPH)

### **Governance of county health facilities**

#### **Hospital Board**

**9.** (1) A county referral and a county hospital shall be governed by a Board.

(2) The Executive Secretary shall nominate qualified and experienced members of the Board as set out in the second schedule of this Act, from among persons competitively sourced and recommended by the county health management Team.

(3) The nominees under subsection (2) shall with the approval of the County Assembly, be appointed by the Governor.

**10.** (1) A health centre or dispensary shall be governed by a committee appointed by the Executive Secretary as set out in the second schedule of this Act.

### **Management of county health facilities**

**11.** (1) Subject to sections 9 and 10

(a) Each hospital will be managed by a health facility management team with an approved organizational structure.

(b) The Hospital Superintendent shall be responsible for the day to day management of a county-referral hospital or a county-hospital

(c) The officer in charge of a health center or a dispensary shall be responsible for the day to day management of the health centre or dispensary.

(2) The Executive Secretary shall prescribe the manner of management of community health unit.

### **Operational guidelines and standards for administration of health facility.**

**12.** (1), the Executive Secretary shall prescribe for county operational policies and guidelines for management and administration of a county health facility in accordance with the existing norms and standards

## **PART III – HEALTH SERVICE DELIVERY**

### **Requirements for health service delivery system**

**13.** The Department and each county health facility shall adapt a health service delivery system as guided by the County health Policy framework, County Health Strategic and investment plans the annual work plans.

### **Cooperation and Collaboration**

**14.** The Department shall ensure that there is effective cooperation and collaboration with other county departments and agencies, national government, local & international

partners (development and implementing) and other county governments in delivery of health services.

## **Rights and duties**

### **Rights of healthcare personnel**

15. A healthcare personnel shall have the right to a safe working environment that minimizes the risk of disease transmission and injury or damage to the health care personnel.

### **Duties of health care personnel.**

16. A health care personnel shall have a duty to-

(a) provide health care, conscientiously and to the best of the personnel's knowledge, within the scope of practice and ability, to every person entrusted to his or her care;

(b) inform a patient, in a manner commensurate with his or her understanding, of his or her health status and-

(i) the range of available diagnostic procedures and treatment options and the availability and costs thereof;

(ii) the benefits, risks, costs and consequences which may be associated with each option; and

(iii) the right of the person to refuse any treatment or procedure.

### **Rights and Duties of a patient.**

17. (1) Every person has the right to:

(a) the highest attainable standard of health including access to promotive, preventive, curative and rehabilitative health services;

(b) to be treated with a professional standard of care, by appropriately qualified and experienced staff in a properly approved or registered organization that meets required levels of safety and quality; and

(c) be treated with dignity, respect and have their privacy respected in accordance with the Constitution and this Act.

(2) A patient shall have a duty to-

- (a) to adhere to the rules of a health establishment when receiving treatment or using the health services provided by the establishment;
- (b) to adhere to the medical or health advice and treatment provided by the establishment;
- (c) to supply the health care provider with accurate information pertaining to his or her health status;
- (d) to cooperate with the health care provider;
- (e) to treat health care providers and health workers with dignity and respect; and if so requested, to sign a discharge certificate or release of liability if he or she refuses to accept or implement recommended treatment.

### **Confidentiality.**

**18.** (1) Information concerning a patient, including information relating to his or her health status, treatment or stay in a health facility is confidential except where such information is disclosed under order of court or informed consent for health research purposes.

(2) Subject to the Constitution and this Act no person may disclose any information contemplated in subsection (1) unless-

- (a) the patient consents to such disclosure in writing in the prescribed form;
- (b) a court order or any applicable law requires such disclosure; or
- (c) non-disclosure of the information represents a serious threat to public health.

(3) Proposed disclosure of any information under subsection 2 (c) shall be subject to regulations prescribed by the Executive Member of Health.

### **Supervision of private health facilities in the county**

**15.** (1) Subject to the national policy and standards, the Executive Secretary shall provide and facilitate oversight and supervision over private health facilities and programs operating in the county to ensure compliance with the established standards.

(2) A private health facility described under subsection (1) may either be-

- (a) Faith based health facility;
- (b) Private For profit health facility; or
- (c) Private Not for profit health facility.

(3) Notwithstanding subsection (1), a private health facility -

- (a) That is not licensed to operate under the relevant written law shall not be granted a business permit or such prescribed county licenses; or
- (b) Shall not be granted the annual business permit or relevant county licenses unless it complies with the prescribed policy and standards related to health facilities or pharmacies

#### **PART IV: Health outcomes and strategies**

##### ***Health outcomes***

**16.** (1) The Department shall ensure that –

- (a) The provision of health services under this Act shall be aimed at achieving the prescribed health outcomes as stated in the Nyeri County health Policy; and
- (2) The health outcomes described under subsection (1) shall conform to the national policy, standards, norms and guidelines

##### **Disease Management Prevention and control**

**17.** (1) Upon commencement of this Act, the Executive Secretary shall prepare and submit to the county executive committee, an annual health statement providing for-

- (a) The disease burden and health conditions;
- (b) The leading health risk factors in the county and impact on various population groups; and
- (c) Strategies or interventions being undertaken or that should be undertaken by the county government at the various levels of care in order to reduce disease burden or risk factors or mitigate their impact.

(2) The County health policy framework shall inform the preparation of the periodic five year county health strategic and investment plan under section 18 as well as its implementation.

(3) The Department or a county health facility may collaborate and partner with other counties, government department and agencies, partners and national government in order to control diseases, disease outbreaks, health conditions or health risk factors.

(4) The Department shall prepare the necessary policies, laws and programs for controlling, reducing or mitigating the impact of the health risk factors guided and anchored to the comprehensive county health policy described under sub section (2)

(5) The health risk factors described under this section shall include tobacco consumption, poor sanitation, alcohol and drug use, unsafe sex, physical inactivity among others.

(6) The Executive Secretary upon the commencement of this Act, shall prepare the health related laws and policies stipulated under the fourth Schedule.

#### **PART V: Health planning and management**

**18.** (1) The county department of health shall prepare periodic five-year County health strategic and Investment plans which shall provide among others for-

(a) Investment in development and maintenance of physical infrastructure in the county health facilities;

(b) Strategies for human resource management and development;

(c) Strategies for controlling key risk factors including tobacco use and alcohol abuse;

(d) Specific and targeted strategies for controlling and mitigating the impact of communicable and non-communicable diseases and conditions as well as injuries prevention;

(e) Adaption and implementation of national policies at the county level;

(f) Strategies for health promotion

(g) Strategies for disease surveillance, epidemic preparedness and emergency response

(h) Strategies for community engagement and action; and

(i) Any other matters as dictated by the county health needs and priorities

(2) The health strategic and investment plan may provide for specific targeted interventions based on the sub-county, ward or villages as may be appropriate.

(3) The health strategic and investment plan will be operationalized through annual work plans

(4) The health strategic and investment plan shall be adopted by the county health assembly

### **Planning units**

**19.** (1) Each county health facility established under section 8 shall be a planning unit.

(2) Each planning unit shall

(a) Develop annual work plan which shall be ratified by the respective Board or Committee and approved by the chief officer.

(b) Prepare annual budgetary estimates.

(c) Implement county health policies and programs at the respective levels.

(3) Annual work plans prepared under subsection (1) shall be in accordance with the county health strategic and investment plan prepared under section 18.

(4) Notwithstanding sub-section (1) above each management level shall be a planning unit for the purpose of implementation of this Act.

### **Specialized units**

**20.** (1) The Executive Secretary shall in consultation with the County Executive Committee designate and facilitate establishment of specialized healthcare units in specified county health facilities.

(2) The specialized units shall be established on the basis of disease burden and county specific needs.

(3) The Executive Secretary shall ensure that the specialized units are established and managed as model specialized units and centres of excellence in their respective areas of specialization

### **County Health Management Team**

**21.** (1) There is established County Health Management Team.

(2) The County health management team shall consist of-

(a) The County Director of health services who shall be the chairperson;

(b) The administrative officer of the Department who shall be the secretary;

- (c) All the heads of units in the Department at the county
- (3) The county health management team shall be responsible for-
- (a) Coordinating implementation of this Act and development and coordination of implementation of all health policies in the County;
  - (b) Providing supervision and support to the management of all the health facilities in the county and the sub county health management teams;
  - (c) Providing leadership and stewardship for overall health management in the county
  - (d) Providing strategic and operational planning, monitoring and evaluation of health service delivery in the county
  - (e) Providing a linkage with the national ministry responsible for health
  - (f) Collaborating with state and non state stakeholders at the county and between counties in health services
  - (g) Resource mobilization for county health services
  - (h) Establishing functional referral systems within and between the counties, and between the different levels of the health care system in line with the sector referral strategy
  - (i) Quality and Compliance Assurance
  - (j) Coordinating and collaborating through county health stakeholders forum(FBO's NGO's, CSO's and development partners)
  - (k) Reviewing and monitoring the implementation of this Act and advising the Department on appropriate measures to be adopted for effective implementation of this Act
  - (l) Facilitating county health facilities in the sub county to comply with the established standards in accordance with section 25; and
  - (m) Consolidation of sub-county quarterly performance reports which shall form the county report, which shall feed into the county annual performance report under **section 27**.
  - (n) Carrying out any other function as may be assigned by the Executive Secretary.
- (4) The County Health Management Team shall convene at least one quarterly performance review meeting with the sub county health management team.

(5) The Executive Secretary shall, prescribe guidelines for governing operations at the sub county Management Team.

**Sub county Health Management Team.**

22. (1) There is established in each sub county, the Sub County Health Management Team.

(2) The sub county health management team shall consist of-

- (a) The medical officer in- Charge of the sub county who shall be the chairperson;
- (b) The sub county health administrative officer who shall be the secretary;
- (c) The heads of units in the department at the sub county;
- (d) The medical superintendents of the county hospital within the sub-county; and
- (e) Any other officer as the Executive Secretary may designate with the advice of the County Health Management Team.

(3) The sub county health management team shall be responsible for-

- (a) Coordinating implementation of this Act other health policies in the sub county;
  - (b) Providing supervision and support to the management of the county health facilities in the sub county;
  - (c) Reviewing and monitoring the implementation of this Act; advising the Department on appropriate measures to be adopted for effective implementation of this Act;
  - (d) Exercising disciplinary measures over health personnel working in the sub county as may be prescribed under subsection (6);
  - (e) Carrying out needs and capacity assessment for county health facilities;
  - (f) In consultation with the county health management team, facilitating capacity building of health personnel at the sub county;
  - (g) Facilitating county health facilities in the sub county to comply with the established standards in accordance with section 26; and
  - (h) Carrying out any other function as may be assigned by the Executive Secretary.
- (4) The Sub county health management team shall prepare and submit quarterly reports of its operations to the County Health Management Team.

(6) The Executive Secretary shall in consultation with the chief officer and the County Health Management Team prescribe guidelines for governing operations of the Sub County Health Management Team.

(7) The Sub County Health Management Team shall meet at least once every month.

### **Health Information System**

**23.** (1) The Department shall establish and maintain an integrated county health information system that feeds into the national health information system .This system shall apply to all county health facilities and units in the Department.

(2) The Department shall –

(a) Be the repository for county health information, data and statistics;

(b) Receive, collect and collate the prescribed data and information from public, FBO's and private health service providers;

(c) Ensure that data and statistics held by the Department are accessible to any member of the public or to any government agency following the appropriate means and procedures while protecting the rights and confidentiality of the clients and patients.

(3) All public, FBO's and private facilities must provide monthly ,quarterly, annual or any other reports as demanded by the county health department in the prescribed format.

(4) All health facilities shall-

(a) Establish and maintain a health information system specified under subsection (2); and

(b) Private and faith based facilities shall ensure compliance with the provision of paragraph (3) as a condition necessary for the grant or renewal of annual operating licenses and other regulatory and oversight requirements.

(4) Any county health facility that neglects or fails to comply with the provision of subsection (3) (b) of this section commits an offence and shall be subject to the prescribed disciplinary measures therein.

### **Research and Development**

**24.** (1) The Department shall establish a county health research unit

(2) The Department shall –

- a. Develop and implement a prioritized county health research agenda in a consultative manner
- b. Establish structures for health research coordination including county health research unit, facility research committees among others
- c. Ensure there is deliberate investment in health research to continually inform evidence –based decisions.
- d. Ensure effective information sharing and dissemination of research findings
- e. Ensure research conducted and implemented in the County meets and conforms to international scientific standards of quality in its design, implementation, analysis and dissemination
- f. Ensure an ethical code of conduct for health research in accordance with the Science, technology and Innovation Act of 2013

(3)The provisions of subsection (2) (c)(d) (e) and (f) shall apply to all health facilities (public, FBO's and private), units in the Department and any other organizations, partners and academic institutions or individuals conducting health research in the county.

### **Certification of Quality Management System**

**25.** (1) Each health facility will maintain the highest quality level of health service according to nationally and internationally accepted norms and standards.

### **Medical Supplies**

**26.** The Executive Secretary shall –

- (a) Establish a county essential medicines and medical supplies list as per level of care which shall be reviewed from time to time as may be determined.
- (b) Establish a system which ensures that the county essential medical supplies are available and accessible as per the level of care in each county health facility;
- (c) Ensure that the medical supplies are quality-assured and meet the standards prescribed under any written law;

- (d) Assess the role played by various stakeholders in reference to medicines and medical supplies in health with a view of establishing a framework of engagement
- (e) Adopt appropriate measures for ensuring cost effectiveness in procurement, supply, storage and distribution systems for essential medicines and medical supplies.
- (f) Establish a catalogue of medical equipment with clear technical specifications to guide procurement which may be reviewed from time to time as may be determined.
- (g) Ensure that donations of medical supplies meet the national and international standards of quality and safety
- (h) Ensure proper disposal of medical supplies, medical and non-medical equipment is as per the prescribed laws and regulations upon approval by the chief officer.

### **Health Service Performance report**

**27.** (1) The Department shall prepare an annual health service performance report which shall consist of-

- (a) The progress towards the implementation of the health strategic and investment plan prepared under section 18.
  - (b) The measures taken to control and mitigate the impact of the health risk factors;
  - (c) The disease burden
  - (f) Challenges faced in the implementation of the plan and proposed mitigation measures;
  - (d) Emerging patterns or trends in lifestyle at intra- and/or inter- county which may negatively impact on health in the county;
  - (e) Generally any matter related to the implementation of the health strategic and investment plan
  - (f) Any other matter as the Executive Secretary may require.
- (2) The Department shall Publish and disseminate the report prepared under subsection (1) through the county website and other cost- effective modes of communication and information sharing

County Health Sector Stakeholders Forum.

**28.** (1) A County Health Sector Stakeholders Forum shall be established consisting of; all departments at the county-government, faith based organizations, nongovernmental organizations, private sector, media, civil societies, special interests groups, institutions of higher learning, research institutions, Semi-autonomous Government Agencies, Community Based Organizations, representatives from among the county residents who are stakeholders in the health sector.

(2) The purpose of the County Health Sector Stakeholders Forum shall be responsible for –

- (a) Policy advocacy and resource mobilization
- (b) Civic education for community empowerment
- (c) Reviewing, monitoring and evaluation of the implementation of the county health policies and programs
- (d) Providing an avenue for joint planning and implementation of health policies and programs under this Act;
- (e) Facilitating a framework and structure for joint and part funding of county health services by the health stakeholders; and
- (f) Carrying out any other function as may be assigned by the Executive Secretary.

(3) The Executive Secretary shall prescribe the conduct of the affairs and business of the forum and the steering committee established under subsection (3).

(4) The Executive Secretary shall develop and maintain an inventory of all government and non-governmental or private sector stakeholders stipulated under subsection (1).

(5) The Forum shall meet at least once in a year (12 months)

## **PART VI- FINANCIAL PROVISIONS**

Nyeri health sector Financing

**29.** (1) The funds for financing the implementation of this Act shall consist of-

- (a) Such grants or transfers as may be received from the national treasury;
- (b) Such monies as may be appropriated by the County Assembly;
- (c) Grants and donations received from any lawful source;

- (d) Such other monies received from national treasury as conditional or non conditional grants, for services rendered to patients in accordance with the established system;
- (e) Such monies received as user charges, fees payable or insurance payments collectable under this Act; or
- (f) Any income generated by a health facility from any project initiated by the health facility.

(2) The funds collected by a health facility under subsection (1) (c), (d), (e) and (f) shall be

(a) Treated as Appropriation in Aid by the recipient health facility; and

(b) Utilized only to defray expenses incurred by the health facility as per the approved health budget estimates by the County Assembly.

(3) Subject to subsection (4) below, a county health facility may charge such user charges or fees for the services rendered.

(4) The Executive Secretary shall prescribe the user charges and fees payable under each county health facility as approved by the County Executive Committee and the County Assembly.

(5) A health facility shall open a bank account into which monies received under subsection (1) (c), (d), (e) and (f) shall be paid solely for the purposes of managing and administering the Funds received.

(6) The Funds under this section shall be managed in accordance with the Public Finance Management Act 2012.

(7) The Executive Secretary may, subject to the approval of the County Treasury, open a bank account for the Department for the purposes of managing any monies received by the Department as grants or donations where appropriate.

(8) Resource allocation will be equitably distributed

## **Procurement**

**30.** (1) The Department shall be a procuring entity for the purposes of procuring medical supplies and goods and services utilized for the purposes of implementing this Act.

(2) Notwithstanding subsection (1) above, a county health facility classified as a county referral hospital or a county hospital under section 7 shall be a procuring entity.

(3) The Department or a county health facility stipulated under subsection 2 shall establish a tender committee in accordance with the Public Procurement and Disposal Act, 2005 and with the approval by the County Treasury.

(4) The Executive Secretary shall ensure that the procurement system for medical supplies, goods and services in the county is harmonized and efficient.

(5) The Department or a county health facility described under subsection (2) shall not procure any medical supplies that do not conform to the standards prescribed under any written law.

(6) A manufacturer or supplier who supplies any medical supplies which do not meet the prescribed standards shall be barred from supplying any medical supply to the county government.

## **PART VI- GENERAL PROVISIONS**

Health laws and policies

**31.** The Executive Secretary shall upon the commencement of this Act, prepare and submit to the county executive committee and the county assembly for enactment or adoption of the laws and policies stipulated under the fourth Schedule.

### **Regulations.**

**32.** (1) The Executive Secretary may make Regulations generally for the better carrying out of the objects of this Act.

(2) Without prejudice to the generality of subsection (1), the Regulations may-

- (a) Prescribe for the health facilities under the provided categories;
- (b) Prescribe the number of dispensaries and community units in a ward;
- (c) Prescribe the compositions and roles of the members of the hospitals boards and the health centers' and dispensaries' committees;
- (d) Prescribe the manner of electing members to the health centers' and dispensaries' committees;
- (e) Prescribe for operational policies and guidelines for management and administration of a health facilities within the county;

- (f) Prescribe the desired health outcomes;
- (g) Prescribe the operational guidelines for management and administration of all health facilities within the county ;
- (h) Prescribe the standards and procedures for conducting inspections and health systems audit;
- (i) Prescribe data and information to be collected and collated from private health service providers; and
- (j) Prescribe the procedure of conduct of the business of the county health sector stakeholders' forum and its steering committee.

**First Schedule (s.8)**

**Level I:** community health unit

**Level II:** Dispensary/clinic

**Level III:** Health centre

**Level IV:** County Hospital

## Level V: County Referral Hospital

### Second Schedule (s.9 and 10)

Provisions as to the Composition and Roles of the Hospital Board and Facility Committee

#### The hospital board shall consist of

- (a) A non-executive chairperson nominated by the executive secretary;
- (b) The Hospital Superintendent of the hospital who shall be an *ex officio* member and the secretary;
- (c) The County Director or his/her representative at the hospital/county/Sub-county levels
- (d) One person representing faith based organizations nominated by a joint forum of the organizations in the county or Sub County;
- (e) One person representing non-governmental organizations providing health services in the county or sub county nominated by a joint forum of non-governmental organizations in the county or Sub County;
- (f) One person representing persons with disabilities nominated by the joint forum of organizations of persons with disabilities in the county or Sub County;
- (g) One person nominated by the joint forum of health professional bodies in the County or sub county, from amongst their members who are not public officers;
- (h) One person who has knowledge or experience in finance or accounting; and
- (i) One person representing the health insurance

(2) The Board may invite any staff member(s) of the hospital management team to attend its meeting as the Board may deem appropriate.

(3) A person shall not be eligible for appointment as a chairperson of a hospital unless the person-

- (a) Possesses a degree from a recognized university or any other equivalent training; and
- (b) Has at least five years experience in management, leadership or administration.

(4) A person shall not be eligible for appointment as a member under subsection (1)

(d), (e), (f), (g), (h) and (i) unless the person-

- (a) Posses at least a diploma from a recognized institution;
  - (b) has at least five years experience in community health, development administration or management or accountancy and finance in the case of a person appointed under subsection (1) (h); and
  - (c) Is a resident of the county or Sub County as the case may be.
- (5) A person shall not be eligible for appointment as a member of the board if they are in contravention with the requirements of Chapter 6 of the constitution of Kenya or if they have ever been convicted of a criminal offence.
- (6) The term of office of a member appointed under sub section (1) (a), (d), (e) (f), (g), (h) and (i) Shall be three years which may be renewed for one further and final term of three years after which the person shall not be eligible for further appointment in the same capacity.
- (7) The Secretary shall provide secretariat services to the Board.

### **Functions of the Board.**

**2.** The Board shall be responsible for-

- (a) Providing oversight over the administration of the hospital;
- (b) Promoting the development of the hospital;
- (c) Approving plans and programs for implementing county health strategies in the hospital;
- (d) Approving estimates before submission to the Chief Officer; and
- (e) Carrying out any other function assigned by the Executive Secretary.

### **Committee of a health centre or dispensary**

**1.** (1) A health centre or dispensary shall be governed by a committee of not less than 7 and not more than 9 members appointed by the Executive Secretary consisting of:-

- (a) Non-executive chairperson;
- (b) The officer in-charge of the facility, who shall be the secretary(ex-officio);
- (c) The ward administrator in the area of jurisdiction(ex-officio)

- (d) The public health officer or Public health Technician covering the facility's catchment area(ex-officio)
- (e) One person representing faith based organizations
- (f) one person representing non-governmental organizations providing health services in the ward nominated by the joint forum of the organizations;
- (g) Two persons elected/ nominated by local community members in accordance with the prescribed procedure.
- (h) One person to represent special interest groups

(2)Subject to sub-section (1) (g) above one of the two persons nominated by the local community must have knowledge in finance or accounting.

### **Function of the committee**

(2).The committee shall be responsible for-

- (a) Providing oversight over the administration of the health centre or dispensary;
- (b) Promoting the development of the health centre or dispensary;
- (c) Representing community interests
- (d) Approving plans and programs for implementing county health strategies in the facility
- (e) May introduce of a fee in consultation with the community members with the purpose of expanding the range of available services.
- (f) Advocate for innovative ways of community-based health financing
- (g) Carrying out any other function assigned by the Executive Secretary

(3) A person shall not be eligible for appointment as a chairperson of a health center or a dispensary unless the person-

- (a) Posses at least a o-level from a recognized institution;
- (b) Has at least three years experience in management, leadership or administration; and
- (c) A resident in the ward.

(3) A person shall not be eligible for appointment as a member under subsection (1)

(f), (g) and (h) unless the person-

- (a) Has class 8 /equivalent level education
- (b) Can communicate in English and/or Kiswahili
- (c) Preferably has three years experience in community health, community development ,administration or leadership; or any other experience considered relevant by the appointing authority
- (d) is a resident in the ward.

(4)A person shall not be eligible for appointment as a member of the board if they are in contravention with the requirements of Chapter 6 of the constitution of Kenya or if they have ever been convicted of a criminal offence.

(5) The term of office of a member appointed under sub section (1) (f), (g) and (h) shall be three years which may be renewed for one further and final three year term after which the person shall not be eligible for another term .

### **Third Schedule (s.9 and Section 10)**

#### **Provisions as to the Conduct of Business and Affairs of the Hospital Board and Facility Management Committee**

##### **Meetings**

1. (1) The Board or Committee shall meet not less than four times in every financial year and not more than four months shall elapse between the date of one meeting and the date of the next meeting.

(2) Notwithstanding the provisions of subparagraph (1), the chairperson may, and upon requisition in writing by at least half of the members, convene a special meeting of the Board or Committee at any time for the transaction of the business of the Board or Committee.

(3) Unless three quarters of the total members of the Board or Committee otherwise agree, at least fourteen days' written notice of every meeting of the Board or Committee shall be given to every member of the Board or Committee.

(4) The quorum for the conduct of the business of the Board shall be five members and for the Committee three members including the chairperson or the person presiding.

(5) The chairperson shall preside at every meeting of the Board or Committee at which he is present but, in his absence, the members present shall elect one of their numbers to preside, who shall, with respect to that meeting and the business transacted thereat, have all the powers of the chairperson.

(6) Unless a unanimous decision is reached, a decision on any matter before the Board or Committee shall be by a majority of votes of the members present and voting and, in the case of an equality of votes, the chairperson or the person presiding shall have a casting vote.

(7) Subject to subparagraph (4), no proceedings of the Board or Committee shall be invalid by reason only of a vacancy among the members thereof.

### **Conflict of interest.**

2. (1) If a member is directly or indirectly interested in an outcome of any decision of the Board or Committee or other matter before the Board or Committee and is present at a meeting of the Board or Committee at which the matter is the subject of consideration, that member shall, at the meeting and as soon as practicable after the commencement thereof, disclose the fact and shall not take part in the consideration or discussion of, or vote on, any questions with respect to the contract or other matter, or be counted in the quorum of the meeting during consideration of the matter: Provided that, if the majority of the members present are of the opinion that the experience or expertise of such member is vital to the deliberations of the meeting, the Board or Committee may permit the member to participate in the deliberations subject to such restrictions as it may impose but such member shall not have the right to vote on the matter in question.

(2) A member of the Board or Committee shall be considered to have a conflict of interest for the purposes of this Act if he acquires any pecuniary or other interest that could conflict with the proper performance of his duties as a member or employee of the Board or Committee.

(3) Where the Board or Committee becomes aware that a member has a conflict of interest in relation to any matter before the Board or Committee, the Board or Committee shall

direct the member to refrain from taking part, or taking any further part, in the consideration or determination of the matter.

(4) If the chairperson has a conflict of interest he shall, in addition to complying with the other provisions of this section, disclose the conflict that exists to the chief officer in writing.

(5) Upon the Board or Committee becoming aware of any conflict of interest, it shall make a determination as to whether in future the conflict is likely to interfere significantly with the proper and effective performance of the functions and duties of the member of the Board or Committee and the member with the conflict of interest shall not vote on this determination.

**Code of conduct.**

3. The Board or Committee shall comply with the code of conduct governing public officers.

**Minutes.**

4. The Board or Committee shall cause minutes of all resolutions and proceedings of meetings of the Board or Committee to be entered in books kept for that purpose

***Conduct of business.***

5. (1) the conduct and regulation of the business and affairs of the Board or a committee established under section 9 and 11 shall be as set out in the First Schedule.

(2) Except as provided in the First Schedule, the Board or the committee established under section 9 and 11 may regulate its own procedure.

***Removal from office.***

3. (1) A person appointed under section 9 and 11, may –

(a) At any time resign by issuing a one month notice in writing to the Executive Secretary;

(b) Be removed from office by the Executive Secretary on the advice of the County Health Management Team and in case of a person appointed under section 9, in consultation with the Governor for-

(i) Serious violation of the Constitution or any other written law;

- (ii) Gross misconduct, whether in the performance of the functions of the office or otherwise;
  - (iii) Physical or mental incapacity to perform the functions of office;
  - (iv) Has been absent from three consecutive meetings of the Board without the permission of the chairperson;
  - (v) Incompetence; or
  - (vi) Bankruptcy.
2. In the event of a member feeling dissatisfied or aggrieved with 1(b) above they may appeal to the office of the governor where a decision made shall be final.

### ***Dissolution of a hospital board***

- 1) A hospital board or a health facility committee at a health centre or a dispensary shall be expected to serve its full term.
- 2) Notwithstanding sub-section (1) above, and without prejudice the hospital board or management committee at the health centre or dispensary may be dissolved on account of gross misconduct, non performance or issues of integrity.
- (3) Such a petition may be made by a person(s) in writing to the Executive Secretary of health
- (4) The Executive secretary upon receiving such a petition shall constitute a committee of at least 5 members to investigate such allegation(s) and make recommendation to the governor.

## **Fourth Schedule**

### **Laws and policies to be enacted or adopted**

- 1. Environmental health Sanitation and hygiene
- 2. Occupational safety
- 3. Public health
- 4. Tobacco control
- 5. Pharmacy and Poisons Act CAP 244
- 6. Treatment and rehabilitation for alcohol and drug dependency

7. Mental health
8. Emergency health
9. Food safety and control
10. Ambulance services, including referral systems and linkages
11. Persons with disabilities Act 2003

And any other laws and policies that the county may find necessary from time to time.

Firstly, the Bill seeks to provide for a legal framework for implementing section 2 of Part 2 of the Fourth Schedule to the Constitution, which assigns health services as a county function.

Secondly, the Bills aims at facilitating health service delivery in the county.

**PART I** of the Bill provides for preliminary provisions.

The Part provides for the purpose of the Bill as promoting access to health services, facilitation of realization of the rights to health care as provided for under Article 43 of the Constitution as well as realization of consumer health rights. The Part also provides for principles of health service delivery which includes management of health services that adopt the health systems approach as prescribed by the national government, observance and protection of health rights of individuals and delivery of health services.

**PART II** of the Bill provides for health services management.

The Part provides for the functions of the department responsible for health services, which include coordination of provision of preventive, promotive, curative and rehabilitative health services, development of health policies, laws and programs and coordinate their implementation, coordination of implementation of national health policies and laws at the county level, coordination of public and private sector health programs and systems at the county level, ensuring compliance with standards for health facilities and health services developing of policies for dealing with health risk factors and acting as repository of data and statistics related to health in the county among others. This part also provides for the establishment of the office of the county director who shall the technical advisor on all matters health in the county.

It further provides for classification of health facilities as county-referral hospital, county hospital, health centre, dispensary and community health unit. It also provides for the establishment of respective management and administration which includes the Board of hospitals and committees for health centres and dispensaries.

**PART III** of the Bill provides for health service delivery.

The Part provides for parameters of health service delivery by obligating the Department and each health facility within the county (public or private) to adopt a health service delivery system that is effective, safe, of good quality, cost effective, accessible, based on continuity of care across health conditions, across different locations and over time, demand driven and integrated among others.

The Part provides for the requirements that health services focus on health outcomes, disease management, prevention and control, preparation of a health strategic and investment plan which will guide development in the health services sector. The Part also establishes each health facility and management levels (county and sub-county) as a planning unit for the purposes of budgeting and provision of health services and obligates the Executive Secretary to establish specialized units. It provides for the establishment of health management teams at the county and sub county level, certification of quality management system, reporting mechanisms and establishment of county health sector stakeholders forum among others. The Executive Secretary is also given powers to supervise private health facilities.

**PART VI** of the Bill provides for financial provisions, which includes the source of funding for Department, health facilities and generally the implementation of the Bill. The Part also provides for the procurement system.

**PART VII** of the Bill provides for general provisions which include the powers of the Executive Secretary to make Regulations and obligatory health policies that the Executive Secretary must facilitate their development.

Dated the 5<sup>th</sup> day of May, 2015.

**Hon. Stephen Mwaniki**  
**Chairperson- Health Services and Sanitation Committee**