

**SPECIAL ISSUE**

*Kenya Gazette Supplement No. 4 (Nairobi City County Bills No. 3)*



REPUBLIC OF KENYA

**KENYA GAZETTE SUPPLEMENT**

**NAIROBI CITY COUNTY BILLS, 2025**

**NAIROBI, 5th May, 2025**

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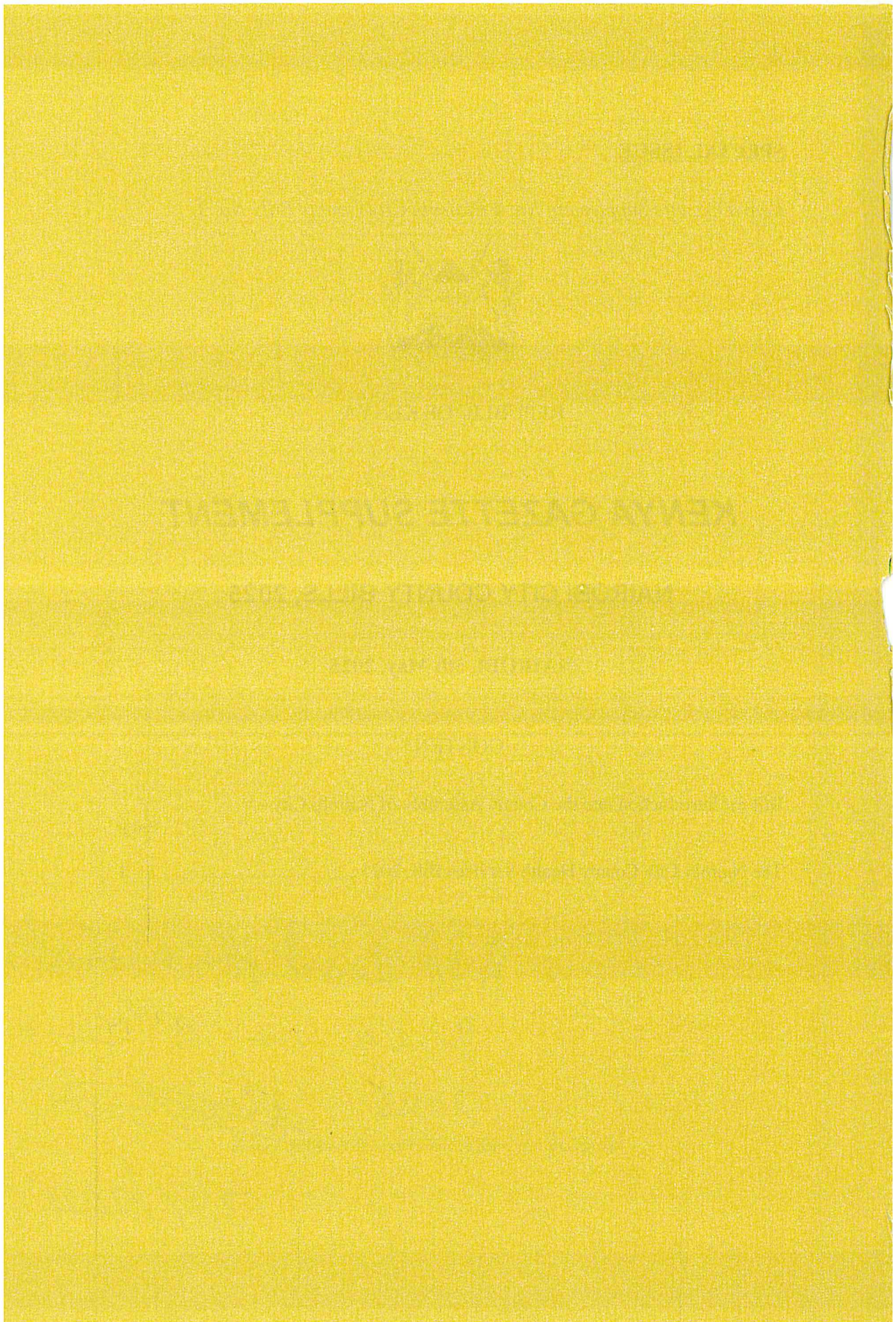
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Bill Read for a First  
time on 2<sup>nd</sup> June  
2025

PRINTED AND PUBLISHED BY THE GOVERNMENT PRINTER, NAIROBI

03/06/2025







# **THE NAIROBI CITY COUNTY HEALTH SERVICES BILL, 2025**

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**THE NAIROBI CITY COUNTY HEALTH SERVICES BILL, 2025****A Bill for**

**AN ACT of the County Assembly of Nairobi City to provide for a legal framework for implementing section 2 of Part 2 of the Fourth Schedule to the Constitution; the regulation and management of health services and for connected purposes**

**ENACTED** by the County Assembly of Nairobi City, as follows—

**PART I—PRELIMINARY****Short title and Commencement**

1. This Act may be cited as the Nairobi City County Health Services Act, 2025.

**Interpretation**

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

“Board” means the Board of a hospital established under Section 13;

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

“Health Facility Management Committee” means the Facility Management Committee established under section 15 of this Act

“County Health Facility” means a health facility managed and financed by the county government;

“County Health Management team” means the county health management team established under section 9 of this Act;

“County Health Sector Stakeholders Forum” means the County Health Sector Stakeholders Forum established under section 46 of this Act;

“Executive Committee Member” means the member of the County Executive Committee for the time being responsible for health services;

“e-health” means the combined use of electronic communication and information technology in the health sector

“health promotion” means the process of enabling people to increase control over, and to improve their health and includes health education, disease prevention, rehabilitation services and health enhancement through empowerment of patients, their relatives and employees in the improvement of health-related physical, mental and social well-being;

“medical supplies” refers to and includes products or materials used



in the delivery of health care services namely pharmaceuticals, non-pharmaceuticals, nutraceuticals, devices, medical appliances and materials, health technologies vaccines and therapeutic antisera, medical equipment and, 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;

“Reproductive age” refers to reproductive age as defined by the world health organization.

“Quality and Compliance Assurance Unit” means the Quality and Compliance Assurance Unit established under this Act.

### **Objects of the Act**

3. The purpose of the Act is to provide for the implementation of section 2 of Part 2 of the Fourth Schedule to the Constitution and to provide for a legal framework for —

- (a) promoting access to health services;
- (b) facilitating realization of right to health care as provided under Article 43 of the Constitution; and
- (c) 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) Management of health services shall adopt a patient centered approach;
- (b) Health services shall be, accessible, affordable and of good quality and standards;
- (c) Health rights of individuals shall be upheld, observed, promoted and protected; and
- (d) Provision of health services shall focus on health outcomes.

## **PART II — ADMINISTRATION AND MANAGEMENT OF HEALTH SERVICES**

### **Functions of the Department**

5. The Department responsible for county health services shall —

- (a) co-ordinate the provision of preventive, promotive, curative and rehabilitative health services;



- (b) develop health policies, laws and programs and coordinate their implementation;
- (c) coordinate the implementation of national health policies and laws at the county level;
- (d) manage day to day human resources under the Department and coordinate with national government on obtaining necessary trained personnel.;
- (e) ensure compliance by health facilities with known standards for health services;
- (f) coordinate public and private sector health programs and systems at the county level;
- (g) facilitate capacity building and professional development for health service personnel;
- (h) oversee the management and governance of county health facilities and facilitating their development;
- (i) provide liaison with national government in implementation of health policies, laws and programs;
- (j) develop policies and laws for control of health risk factors and initiating relevant mitigating measures and programs in collaboration with other agencies;
- (k) promote realization of health rights;
- (l) ensure that the objects of this Act and the principles of health services provided under section 4 are realized;
- (m) carry out research and dissemination of research findings on health matters;
- (n) act as the repository of data, statistics and information related to health in the County.
- (o) co-ordinate emergency and disaster preparedness
- (p) monitor and evaluate the implementation of this Act; and
- (q) carry out any other function for realization of the purpose of the Act and as may from time to time be assigned the County Executive Committee.

### **Staff**

6. (1) The County Public Service Board shall in consultation with the Executive Member, 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.

**Classification of county health facilities**

7. (1) All health facilities in the County shall be classified in accordance with the Ministry of Health Guidelines as —

- (a) County hospitals/Level 5
- (b) Sub-county hospitals/Level 4
- (c) Health centers /Level 3
- (d) Dispensaries and Clinics Level 2; and
- (e) Community health unit/Level 1.

(2) The County Executive Committee Member responsible for health services may designate a county hospital to be a county referral hospital or county referral and teaching hospital, upon recommendation by the relevant authority.

**Establishment of health facilities**

8. (1) There shall be—

- (a) at least one county hospital;
- (b) at least one sub-county hospital in each sub-county
- (c) at least one health center in each ward; and
- (d) Such number of dispensaries and community health units in each ward as may be prescribed.

(2) The Executive Committee Member for health shall, in consultation with the County Executive Committee and guided by the Ministry of Health guidelines prescribe the category applicable to each county health facility described under subsection (1).

**Establishment and composition of County Health Management Team**

9. (1) The County Executive Committee Member shall establish a County Health Management Team (CHMT) with clear functions and responsibilities for the operational management of health service delivery in the county.

(2) The County Health Management Team shall be comprised of —

- (a) all the Chief Officers responsible for Health and the Chief officer for Medical services shall be the chairperson;
- (b) all the County Directors of the Health department;



- (c) the Administrative Officer of the department, who should be the secretary;
- (d) Medical superintendents of all county hospitals.

### **Functions of the County Health Management Team**

10. (1) The County Health Management Team (CHMT) is responsible for technical operational management of health services in the county, including coordination, supervision, providing technical support, monitoring and evaluation, and guiding the facilities in planning, budgeting, and implementation of the health plans.

(2) Specifically, the CHMT is responsible for —

- (a) coordinating and overseeing the interpretation and implementation of County health laws and National health policies, including maintenance of standards on quality, performance, coordination and regulation, and control of all health services in the public and private sectors in their areas of jurisdiction;
- (b) reviewing, monitoring the implementation, and advising the County Department of Health on appropriate measures to be adopted for effective implementation of relevant National and County legislation and policies;
- (c) coordinating, supporting, and supervising the planning, implementation, monitoring, and evaluation of technical and managerial activities for health services in the county;
- (d) ensuring that good governance/management standards are applied within facilities and in the relations between facilities;
- (e) supporting sub-county health management teams and Health facility management teams in preparing annual and quarterly operational plans, including their respective budgets and procurement plans;
- (f) reviewing and approving the consolidated facility plans submitted by sub-counties;
- (g) provide support and supervision to the management of County health facilities;
- (h) developing supplementary sources of income for the provision of services, in so far as these are compatible with the applicable law;
- (i) checking the accuracy and timeliness of all financial reports submitted by the Sub-county Health Management Team and the



Health Facility Management Team to facilitate prompt approval of spending by facilities;

- (j) ensuring that available qualified human resources are equitably deployed to facilities, capacity building needs are assessed and any identified gaps effectively addressed including disciplinary measures;
- (k) ensuring an efficient and effective vertical and horizontal flow of information;
- (l) reviewing and approving annual financial statements and reports before submission to the relevant Chief Officers of Health;
- (m) ensuring that health facilities are adequately resourced in terms of budgetary provisions, health products and technologies equipment and human resources.

### **Establishment and composition of the sub-county Health Management**

11. (1) The County Executive Member for health shall establish a Sub-county Health Management Team (SHMT) with clear functions and responsibilities for the operational management of sub-county health service delivery.

(2) The Sub-County Health Management Team shall comprise of the following members —

- (a) Medical Officer in charge of the sub-county, who shall be the chairperson.
- (b) Sub-county Health Administrative Officer, who shall be the secretary.
- (c) all Unit heads within the sub-county department
- (d) the Medical Superintendent of the sub-county hospital.
- (e) any other officer as the County Executive Committee Member may in consultation with the County Health Management Team co-opt and designate.

### **Functions of the Sub-county Health Management Team**

12. The Sub- county health management team shall be responsible for—

- (a) co-ordinating implementation of this Act and other health policies in the sub-county;



- (b) providing supervision and support to the management of sub-county health facilities;
- (c) supporting Health Facility Management Teams in preparing annual and quarterly operational plans, including their respective budgets and procurement plans;
- (d) reviewing and consolidating plans submitted by Health Facility Management Teams;
- (e) sending consolidated annual and quarterly facility budgets to the County Health Management Team for approval by the Department of Health;
- (f) enforcing disciplinary measures against health personnel working in the sub-county, as may be prescribed under legislation;
- (g) carrying out needs and capacity assessment for county health facilities;
- (h) facilitating capacity building of health personnel in the sub-county, in consultation with the County Health Management Team.

### **Hospital Management Board**

**13. (1)** A county and a sub-county hospital shall be governed by a Hospital Management Board appointed and gazetted by the Executive Committee Member with the approval of the County Assembly.

(2) A Hospital Management Board shall comprise a total membership of at least seven (7) and not more than Nine (9) members as follows —

- (a) a chairperson appointed by the Governor on the recommendation of the County Executive member responsible for health
- (b) the Medical Superintendent of the hospital or the person in charge of the hospital who shall be the secretary and *ex officio* member;
- (c) County Director of Medical Services (for Level 5 hospitals) and the head Medical Officer of health Sub-county (for Level 4 hospitals) or their representative duly nominated in writing;
- (d) one person appointed by virtue of expertise and experience as a medical practitioner;
- (e) the Area Member of County Assembly representing the Ward where the hospital is located as *ex-officio* member;



- (f) four persons who shall be residents of the area of jurisdiction from the following categories—
  - (i) one person representing community based organizations in the county or sub county;
  - (ii) one person representing people living with disabilities in the county or sub county;
  - (iii) one person representing the youth in the county or sub-county
  - (iv) one person who has the knowledge or experience in finance or administration.

(3) The Board may co-opt the hospital administrative officer, the hospital nursing officer or any other personnel to attend its meeting as the Board may deem appropriate.

(4) Gender equality shall be upheld in appointment of members of the Board.

(5) A person shall not be eligible for appointment as a chairperson of a hospital management board unless the person—

- (a) is an adult of sound mind
- (b) possesses a degree from a recognized institution of higher learning; and
- (c) has at least five years experience in management, leadership or administration;
- (d) meets the requirements of chapter six of the constitution.

(6) A person shall not be nominated and appointed to the Board unless the person—

- (a) is an adult of sound mind and a citizen of Kenya;
- (b) meets the requirements of chapter six of the constitution; and
- (c) has at least five years' experience in community health work or development administration or management
- (d) has atleast five years' experience in accountancy and finance in the case of a person appointed under subsection (2)(f)(iv); and
- (e) is a resident of the county or sub county as the case may be.

(7) The term of office of members of the board unless *ex-officio* shall be three years which may be renewed for one term.

### **Functions of the Hospital Management Board**

14. The Hospital Management Board shall be responsible for—



- (a) providing oversight over the management and 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) evaluating the proposals and estimates presented by the Hospital Management Teams for approval;
- (e) acting as the liaison between the community, the hospital, and the county health system to ensure that the hospital fulfils its mandate;
- (f) approving estimates before submission to the Executive Member; and
- (g) carrying out any other function assigned by the Executive Committee Member.

### **Establishment and composition of Health Facility Management Committee**

15. (1) The County Executive Committee Member for health shall appoint and gazette a Health Facility Management Committee (HFMC) for every Health Center and Dispensary in the County to be responsible for the management of health services and funds at the facilities.

(2) The Health Facility Management Committee shall comprise of at least seven and at most nine members who should include—

- (a) a Chairperson elected by the committee members who shall not be an *ex-officio* member.
- (b) the Sub-county Medical Officer of Health or their representative duly nominated in writing who shall be the secretary
- (c) the officer in-charge of the health facility who shall be the secretary
- (d) the following persons who shall be residents of the health facility catchment area appointed by the Executive Committee Member—
  - (i) one person who shall have knowledge and experience in finance and administration matters;
  - (ii) one person to represent special interest groups such as the vulnerable, marginalized communities and minorities;
  - (iii) one person to represent the youth.



(iv) one person to represent recognized community based organizations;

(v) one person to represent persons living with disabilities.

(3) In constituting the Committee, the County Executive Committee Member for health shall ensure that at least one third of the total membership of the Committee are from the opposite gender, and that the interests of diverse groups in the catchment area such as women, persons with disability, youth, and marginalized communities are represented.

(4) The members shall serve for a term of three years which shall be renewable for one term.

(5) A person shall not be appointed as a member of the Health Facility Management Committee unless the person—

(i) is an adult of sound mind and of good standing in the community;

(ii) is a resident of the area;

(iii) possesses the ability to read and write at least in one language; official or national;

(iv) possesses demonstrated leadership qualities;

(v) demonstrates commitment to community service.

### **Functions of Health Facility Management Committee**

16. The functions of the Health Facility Management committee shall be—

(a) oversee the general operations and management of the health facility;

(b) represent, articulate and communicate community interests on matters pertaining to health services at the facility;

(c) oversee the administration of the funds allocated to the facility;

(d) approve prepared health facility work plans and budget based on estimated expenditures;

(e) provide oversight on basic books of accounts and records of accounts of the income, expenditure, assets and liabilities of the facility according to the existing laws and regulations;

(f) approve and facilitate timely submission of periodic financial and performance reports to the county director of health and sub-county health management team;



- (g) keep a record of all deliberations of the committee;
- (h) facilitate feedback process to the community, pertaining to the operations and management of the health facility;
- (i) ensure safe and good working environment that motivates staff for health service delivery in the health facility.

### **Conduct of business of the board & committee**

17. (1) The conduct and regulation of the business and affairs of the Board established under section 13 and 15 shall be as set out in the First Schedule.

(2) Except as provided in the First Schedule, the Board may regulate its own procedure.

### **Removal from office**

18. (1) A person appointed under section 13 and 15 may—

- (a) at any time resign by issuing notice in writing to the Executive Committee Member;
- (b) be removed from office by the Executive Committee Member on the advice of the County Health Management Team and in case of a person appointed under section 13, 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;
  - (vi) Bankruptcy;
  - (vii) Death.

### **Operational guidelines and standards for administration of health facilities**

19. (1) Subject to standards and norms, and in consultation with the national government, the Executive Member shall prescribe operational



policies and guidelines for management and administration of a county health facility.

(2) Each county health facility shall, with the approval of the Executive Member, establish such professional and management teams as may be necessary for the purposes of effectively carrying out their functions.

### **PART III—HEALTH SERVICE DELIVERY**

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

20. The Department and each county health facility shall adopt health service delivery system that is —

- (a) effective;
- (b) safe;
- (c) of good quality;
- (d) cost effective;
- (e) accessible;
- (f) based on continuity of care across health conditions, across different locations and over time;
- (g) demand driven;
- (h) integrated;
- (i) personal to the targeted users; and
- (j) adequately resourced.

#### **Cooperation and collaboration**

21. The County Health System shall work in a manner that respects the distinct levels of government while also upholding the principles of cooperation and coordination.

#### **Public health facilities**

22. The County government shall ensure the progressively equitable distribution throughout the County of such public owned health institutions including hospitals, health centers, pharmacies, clinics and laboratories as are deemed necessary for the promotive, preventive and rehabilitative health services.

### ***Rights and Duties***

#### **Rights of a healthcare personnel**

23. A healthcare personnel shall have the right to —



- (a) a safe working environment that minimizes the risk of disease transmission and injury or damage to the health care personnel.
- (b) right to refuse to treat a patient who is physically abusive except in emergency situations where no alternative health care personnel is available.

**Duties of a healthcare personnel**

**24.** A health care personnel shall have a duty to —

- (a) provide emergency medical treatment
- (b) 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 their care;
- (c) inform a patient, in a manner commensurate with their understanding, of their—
  - (i) health status provided that that where this would be contrary to the best interests of the user, then in such cases, the requisite information should be communicated to the next of kin or guardian as case may be.
  - (ii) the range of available diagnostic procedures and treatment options and the availability and costs thereof;
  - (iii) the benefits, risks, costs and consequences which may be associated with each option; and
  - (iv) the right of the person to refuse any treatment or procedure.

**Rights of a patient**

**25.** Every patient 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 professional standard of care, by appropriately qualified and experienced staff in a properly approved or registered facility 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.

**Duties of a patient**

**26.** A patient shall have a duty to —



- (a) adhere to the rules of a health establishment when receiving treatment or using the health services provided by the establishment;
- (b) 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 their health status;
- (d) to treat health care providers and health workers with dignity and respect; and
- (e) if so requested, to sign a discharge certificate or release of liability if the patient refuses to accept or implement recommended treatment.

### **Emergency treatment**

27. (1) Every person has the right to emergency medical treatment.

(2) No person shall be denied emergency treatment by the health service provider of first contact whether in a public health facility or a private health facility.

(3) For the purposes of this section, emergency medical treatment shall include—

- (a) pre-hospital care;
- (b) stabilizing the health status of an individual; or
- (c) arranging for referral in cases where the health provider of first call does not have facilities or capability to stabilize the health status of the victim.

(4) Any health care provider who fails to provide emergency medical treatment while having ability to do so commits an offence and is liable upon conviction to a fine not exceeding one million shillings or imprisonment for a period not exceeding twelve months or both.

### **Reproductive health**

28. (1) Every person has a right to reproductive health care which includes—

- (a) the right of a person of reproductive age to be informed about and to have access to reproductive health services including safe, effective, affordable and acceptable family planning services, except elective abortions;



- (b) access to treatment by a trained health professional for conditions occurring during pregnancy including abnormal pregnancy conditions, such as ectopic, abdominal and molar pregnancy, or any medical condition exacerbated by the pregnancy to such an extent that the life or health of the mother is threatened.

(2) For the purpose of subsection (1) (b), the term “a trained health professional” shall refer to a health professional with formal medical training at the proficiency level of a medical officer, a nurse, midwife, or a clinical officer.

(3) Any procedure carried out under subsection (1) (a) or (1) (b) shall be performed in a legally recognized health facility with an enabling environment consisting of the minimum human resources, infrastructure, commodities and supplies for the facility as defined in the norms and standards developed under this Act.

### **Consent**

29. (1) No health service may be provided to a patient without the patient’s informed consent unless—

- (a) the patient is unable to give informed consent and such consent is given by a person —
  - (i) mandated by the patient in writing to grant consent on his or her behalf; or
  - (ii) authorized to give such consent by any law or court order.
- (b) the patient is unable to give informed consent and no person is mandated or authorised to give such consent, but the consent is given by the next of kin;
- (c) the provision of a health service without informed consent is authorised by an applicable law or court order;
- (d) the patient is being treated in an emergency situation;
- (e) failure to treat the patient or a group of people which includes the patient will result in a serious risk to public health; and
- (f) any delay in the provision of the health service to the patient might result in their death or irreversible damage to the patient’s health and the patient has not expressly or by implication or by conduct refused that service.

(2) A health care provider must take all reasonable steps to obtain the user’s informed consent.



(3) For the purposes of this section “informed consent” means consent for the provision of a specified health service given by a person with legal capacity to do so and who has been informed of the nature of the service to be so provided.

### **Confidentiality**

30. (1) Information concerning a patient including information relating to their health status, treatment or stay in a health facility is confidential except where such information is disclosed under a court order 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) Any Proposed disclosure of any information under subsection 2 (c) shall be subject to regulations prescribed by the Executive Member of Health.

### **Complaints**

31. (1) Any person has a right to file a complaint about the manner of treatment at a health facility and have the complaint investigated appropriately.

(2) The County Executive Member in charge of health shall establish and publish the procedure for the laying of complaints within public and private health care facilities in those areas of the county health system for which they are responsible.

(3) The procedures for laying complaints shall—

- (a) be displayed by all health facilities in a manner that is visible for any person entering the establishment; and
- (b) be primarily handled by the head of the relevant facility or any person designated by the facility as responsible for handling user complaints

(4) Every complainant under subsection (1) has a right to be informed, in writing and within a period of three months from the date the complaint was lodged, of the action taken or decision made regarding the complaint.



(5) Where a health facility fails to resolve a complaint to the satisfaction of the complainant, the County Executive Member in charge of health shall take necessary action.

### **Duties of County Government**

**32. (1)** The county government shall —

- (a) offer technical support with emphasis on health system strengthening;
- (b) develop and implement measures to promote equitable access to health services within the county, with special emphasis on eliminating the disparity in realization of the objects of this Act;
- (c) develop and promote application of norms and standards for the development of human resources for health including affirmative action measures for health workers working in hard to reach areas;
- (d) provide for medical audit of deaths with a special emphasis on maternal and neonatal deaths as a tool for the further development of obstetric and neonatal care;
- (e) develop, through regulatory bodies, standards of training and institutions providing education to meet the needs of service delivery;
- (f) through respective regulatory bodies to develop and ensure compliance on professional standards on registration and licensing of individuals in the health sector;
- (g) coordinate development of standards for quality health service delivery;
- (h) coordinate all health aspects of disaster and emergencies;
- (i) ensure through intergovernmental mechanisms that financial resources are mobilized to ensure uninterrupted access to quality health services country wide;
- (j) promote the development of public and private health institutions to ensure their efficient and harmonious development and in the common interest work towards progressive achievement of the right to health;
- (k) provide for the development and expansion of a county health information management system;
- (l) facilitate all forms of research that can advance the interests of public health;



- (m) promote the use of appropriate health products and technologies for improving the quality of health care;
- (n) collaborate in the common interest with the health authorities of other counties, countries and with national, regional and international bodies in the field of health; and
- (o) provide policy guidelines in public-private partnerships for health to enhance private sector investment.

### ***Health Policies and Measures***

#### **Health outcomes**

**33.** 1) The Department shall ensure that —

- (a) the provision of health services under this Act shall be aimed at achieving the prescribed health outcomes; and
- (b) the health policies, plans, budget and implementation of the policies are developed and implemented with the aim of achieving the prescribed health outcomes.

(2) The health outcomes described under subsection (1) shall conform to the national policy, standards, norms and the guidelines prescribed by the World Health Organization

#### **Health promotion policies**

**34.** (1) The Department shall, in collaboration with public or private sector agencies, develop or strengthen and implement cross-sector health promotion policies and programs that—

- (a) promote health and wellbeing;
- (b) create supportive environment to enable people to live healthy lives;
- (c) address inequality and wider determinants of health that are oriented towards reduction of non-communicable diseases;
- (d) promote and enhance capacity of local communities and individuals for health promotion; and
- (e) Support partnerships for health promotion.

(2) The Department shall, in each year—

- (a) conduct an assessment of the extent to which other county policies integrate and support health promotion; and
- (b) prepare a report of the assessment conducted under paragraph (a) and shall submit the report to the Executive Member for transmission to the County Executive Committee for consideration.



(3) The County Executive Committee shall establish an Inter-governmental Committee for coordinating development and implementation of cross-sector health promotion policies stipulated under this section.

(4) The Committee established under this subsection (3) shall consist of all relevant county government departments or agencies and any relevant National Government department or agency.

(5) In each year, the Department shall prepare a report of the assessment conducted under subsection (2) and shall submit the report to the Executive Member for transmission to the county executive committee for consideration

### **Primary Health care**

35. (1) Community units, dispensaries and health centres shall be the basic units of primary health care.

(2) The Department shall develop and coordinate implementation of primary health care policies and programs as prescribed by World Health Organization and the national policy.

(3) The Executive Member shall ensure that the each community unit, dispensary and health centre is resourced sufficiently in order to enable it provide primary health care.

### **Disease control**

36. (1) The Executive Member shall within six months after the commencement of this Act, prepare and submit to the county executive committee, a health statement providing for magnitude of —

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

(2) The health statement shall inform the process of preparing the health plan under section 37 as well as policy, design and implementation.

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

(4) The Department shall within twelve months after the preparation of the health statement described under sub section (1) prepare the



necessary policies, laws and programs for controlling, reducing or mitigating the impact of the health risk factors.

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

### ***Health Planning and Management***

#### **Health plan**

37. (1) In accordance with the County Governments Act, 2012, the Department shall prepare a ten-year health plan which shall provide among others for—

- (a) investment in physical infrastructure in the county health facilities;
- (b) human resource strategy 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 communicable and non-communicable diseases and conditions as well as injuries prevention.
- (e) implementation of national policies at the county level;
- (f) strategies for health promotion as stipulated under section 34;
- (g) strategies for community engagement and action; and
- (h) any other matter that the Executive Member may require.

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

(3) The health plan shall, for the purposes of section 107 of the County Governments Act, be the health sector plan and may be reviewed annually.

(4) The health plan shall be adopted by the county executive committee.

#### **Planning units**

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

(2) Each planning unit shall—



- (a) develop five year strategic plan which shall be approved by the respective Board or Committee and by the county executive committee;
- (b) prepare annual estimates of income and expenditure; and
- (c) implement county health policies and programs at the respective level.

(3) A strategic plan prepared under subsection (1) shall be in accordance with the health plan prepared under section 37.

### **Specialized units**

**39.** (1) The Executive Member 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, health condition or age and shall include among others —

- (a) maternal health;
- (b) child health; and
- (c) mental health.

(3) The Executive Committee Member shall ensure that the specialized units described under section (2) (a), (b) and (c) are—

- (a) established within one year upon the commencement of this Act;
- (b) equitably distributed within the county; and
- (c) established and managed as model specialized units and centres of excellence in their respective areas of specialization.

(4) For the purposes of this section, “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.

### **Certification of quality management system**

**40.** (1) Each health facility shall have a Quality Management System, which shall be certified under the recognized International Quality Standards and any other certification applicable to health services.

(2) The Executive Member shall ensure that within five years after the commencement of this Act, all health facilities are certified under this section.



### **Quality and compliance assurance unit**

**41.** (1) There is established in the Department the Quality and Compliance Assurance Unit.

(2) The Quality and Compliance Assurance Unit shall be responsible for carrying out inspections and health systems audit in county health facilities in order to ensure compliance with established standards and quality management systems established under section 40.

### **Conduct of quality and compliance inspections audit**

**42.** (1) The Executive Member shall prescribe the standards and procedures for conducting inspections and health systems audit.

(2) The Quality and Compliance Assurance Unit shall—

- (a) conduct continuous scheduled or non-scheduled inspections and health systems audit in county public health facilities;
- (b) conduct once every three years, a comprehensive health systems audit and assessment of each county health facility; and
- (c) collaborate with the county and sub county health management teams.

(3) A person in charge of a county health facility shall provide the necessary support and information to the Quality and Compliance Assurance Unit in order to enable it carry out its functions.

(4) A person who fails to comply with subsection (3) shall be deemed to have breached the code of conduct for county public service and shall be subject to the prescribed disciplinary measures therein.

(5) Subject to section 41, the Quality and Compliance Assurance Unit may conduct inspections and health systems audit in private health facilities.

(6) The Quality and Compliance Assurance Unit shall prepare and submit —

- (a) a report for each facility inspected or audited and submit it to the management of the facility, the county or sub county health management team; and
- (b) a report of its operations to the Executive member every six months.

### **Medical supplies**

**43.** The Executive Member shall —



- (a) in consultation with the County Executive Committee, establish a system which ensures that essential medical supplies are available and accessible in each county health facility;
- (b) ensure that the medical supplies are of good quality and meet the standards prescribed under any written law; and
- (c) adopt appropriate measures for ensuring cost effectiveness in procurement, supply, storage and distribution systems for medical supplies.

### **Quarterly reports**

44. The Department shall prepare quarterly reports on the implementation of this Act which shall be transmitted to the county executive committee for consideration.

### **Health status report**

45. (1) The Department shall, not later than three months after the end of each financial year, prepare a health status report which shall consist of—

- (a) the status of implementation of the Act during the year;
- (b) the extent of consultation, cooperation and collaboration with national government and other county governments as stipulated under section 21;
- (c) the progress towards the implementation of the health plan prepared under section 37;
- (d) the measures taken to control and mitigate the impact of the health risk factors;
- (e) the level of disease burden disaggregated in terms of age, gender, social status, and ward, communicable and non-communicable diseases and injuries prevention among others;
- (f) challenges faced in the implementation of the Act and proposed mitigation measures;
- (g) measures taken and progress made towards health promotion and implementing the respective policies;
- (h) emerging patterns or trends in lifestyle within the county or at national level which may negatively impact on health in the county;
- (i) the level and status of compliance with quality standards established under section 40;



- (j) progress and status of supervision and oversight over private health facilities as stipulated under section 51;
- (k) generally any matter related to the implementation of this Act; and
- (l) any other matter as the Executive Member may require

(2) The Executive Member shall, within fourteen days of receiving the annual report submit it to the County Executive Committee and thereafter within twenty one days transmit it to the Clerk of the County Assembly for tabling before the County Assembly for consideration.

(3) The Department shall —

- (a) publish the report prepared under this subsection;
- (b) publicize the report to county residents; and
- (c) facilitate the collation of views and feedback from county residents in relation to the report.

### **County Health Sector Stakeholders forum**

**46.** (1) There is established the County Health Sector Stakeholders Forum, which shall consist of government organizations, faith based organizations, non-governmental organizations, private sector and county residents who are stakeholders in the health sector.

(2) The County Health Sector Stakeholders Forum shall be responsible for —

- (a) advising the Executive Member on the appropriate policies to be adopted for better implementation of the Act;
- (b) reviewing, monitoring and evaluation of the implementation of this Act and county health policies and programs and advising the Executive Member on appropriate measures to be adopted;
- (c) providing an avenue for joint planning and implementation of health policies and programs under this Act;
- (d) facilitating a framework and structure for joint and part funding of county health services by the health stakeholders; and
- (e) carrying out any other function as may be assigned by the Executive Member.

(3) There shall be an Executive Committee of the County Health Sector Stakeholders Forum consisting of—

- (a) a Chairperson who shall be appointed by the Executive Member in consultation with the County Health Management Team;



- (b) the Chief Officer responsible for medical health services who shall be the secretary to the Executive Committee of the Forum;
- (c) the County Health Directors;
- (d) County public health officer;
- (e) one person representing development partners in health services in the county;
- (f) one person nominated by the community based organizations providing health services in the county;
- (g) one person nominated by the women organizations providing health services in the county;
- (h) one person nominated by the non-governmental organization providing health services in the county;
- (i) one person representing private healthcare providers in the county;
- (j) one person nominated by health professional associations in the county; and
- (k) one person nominated by organization of persons living with disabilities.

(4) The Stakeholders Executive Committee shall be responsible for coordinating the activities of the forum and providing liaison between the stakeholders and the Department.

(5) The Executive Committee Member for health shall prescribe the conduct of the affairs and business of the forum and the executive committee established under subsection (3).

(6) The Executive Member shall publish a list of all government and non-governmental or private sector stakeholders stipulated under subsection (1).

(7) The Forum shall meet at least three times in a year, provided that not more than four months shall expire before holding a meeting.

#### **PART IV—PRIVATE SECTOR HEALTH CARE**

##### **Private Health Services**

47. (1) County Executive Committee Member shall pursue strategies conducive to the development of private health services and their attunement to the needs of the population.



(2) The public and private health services facilities shall complement each other in the provision of comprehensive and accessible health care to the people.

### **Licensing of private entities to operate hospitals**

48. (1) Private entities shall be permitted to operate hospitals, clinics, laboratories, pharmacies and other institutions in the health sector, subject to licensing by the appropriate regulatory bodies.

(2) The standards to be met in order to qualify for the issuance of an operational licence under this section shall be as defined in regulations issued under this Act by the County Executive Member.

### **Private health workers**

49. Private health workers appropriately qualified to practice any health profession shall similarly be entitled to practice their profession in the county, subject to licensing by the appropriate regulatory bodies.

### **Duty of licensees**

50. (1) Institutions licensed under section 48 and private health workers licensed under section 49 shall irrespective of any specific conditions attached to such a license be bound—

- (a) to permit and facilitate inspection at any time by the Authority and regulatory bodies;
- (b) to provide emergency services in their field of expertise required or requested either by individuals, population groups or institutions, without regard to the prospect or otherwise of direct financial reimbursement.

(2) Institutions and private health workers shall nevertheless be entitled to compensation under similar terms as contemplated under this Act.

### **Supervision of private health facilities**

51. Subject to the national policy and standards, and in consultation with the national government, the Executive Member shall provide and facilitate oversight and supervision over private health facilities or programs operating in the county to ensure compliance with the established standards.

### **Public private partnership**

52. (1) Where appropriate, and subject to the provisions of the Public Private Partnerships Act (No. 14 of 2021), the County Government may enter into partnership agreements with companies operating in the private



sector in order to develop specific services or facilities that will serve the needs of public health.

(2) The County or individual facilities may similarly enter into agreements of this type with the private sector subject to the provisions of the Public Private Partnerships Act (No. 14 of 2021).

## **PART V—e-HEALTH**

### **e-Health**

**53.** E-health shall be a recognized mode of health service.

### **Health Information System**

**54.** (1) The County Health department shall deploy in all its health facilities, the Ministry of Health's Digital Health Information System.

(2) The Department shall establish a county health information system that shall apply to all county health facilities and units in the Department.

(3) The Department shall —

- (a) be the repository for county health information, data and statistics;
- (b) collate the prescribed data and information from private health service providers; and
- (c) ensure that data and statistics on health kept by the Department are accessible to any member of the public or to any government agency.

## **PART VI—HEALTH FINANCING**

### **Funds**

**55.** (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 government;
- (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 government 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) shall be 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), a county health facility may charge such user charges or fees for the services rendered.
- (4) The Executive Member 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.
- (7) The Executive Member may, subject to the approval of the County Treasury, open a bank account for the Health Department for the purposes of managing any monies received by the Department as grants or donations where appropriate.

### **Procurement**

- 56.** (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), a hospital classified as a county hospital under section 7 shall be a procuring entity.
  - (3) The Department or a hospital stipulated under subsection 2 shall establish a tender committee in accordance with the Public Procurement and Disposal Act, 2015 and with the approval by the County Treasury.
  - (4) The Executive Member shall in consultation with the County Executive Committee ensure that the procurement system for medical supplies in the county is harmonized and efficient.



(5) The Department or a county hospital described under subsection (2) shall not procure any medical supply that does not conform to the standards prescribed under any written law.

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

## **PART VII—TRANSITIONAL AND MISCELLANEOUS PROVISIONS**

### **Health laws and policies**

57. The Executive Member shall, within eighteen months upon the commencement of this Act, prepare and submit to the county executive committee and the county assembly for enactment or adoption the laws and policies stipulated under the Second Schedule.

### **Existing laws**

58. (1) Except to the extent that this Act expressly provides to the contrary, all rights and obligations, however arising, of the County Government and subsisting immediately before the effective date shall continue as rights and obligations of the county government as assigned under this Act.

(2) All laws in force immediately before the effective date of this Act continues in force and shall be construed with the alterations, adaptations, qualifications and exceptions necessary to bring it into conformity with this Act.

### **Transitional provision**

59. All gazetted Members of the current Hospital Boards and Health Facility Management Committees shall continue to operate as per existing regulations.

### **Regulations**

60. The Executive Member 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 manner of electing members to the health centres and dispensaries' committees;



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- (d) prescribe for operational policies and guidelines for management and administration of a county health facility;
  - (e) prescribe the health outcomes;
  - (f) prescribe the standards and procedures for conducting inspections and health systems audit;
  - (g) prescribed data and information to be collated from private health service providers; and
  - (h) prescribe the procedure of conduct of the business of the county health sector forum and its executive committee.



**FIRST SCHEDULE****CONDUCT OF MEETINGS OF THE BOARD AND 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 shall, 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 invalidated by reason only of a vacancy in the board.

**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 executive Member 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 or 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.



**SECOND SCHEDULE**  
**POLICIES AND LAWS**

A. For effective implementation of this Act the County government shall endeavor to develop policies and enact laws addressing the following areas —

- (i) Environmental health;
- (ii) Traditional and Alternative Medicine;
- (iii) Occupational safety;
- (iv) Public health;
- (v) Tobacco control;
- (vi) Treatment and rehabilitation for alcohol and drug dependency;
- (vii) Mental health;
- (viii) Sanitation and water quality;
- (ix) Food safety and control;
- (x) Ambulance services;
- (xi) Human Organs transplantation;
- (xii) Postmortem;
- (xiii) Health Financing;
- (xiv) Any other relevant policies and laws.



## **MEMORANDUM OF OBJECTS AND REASONS**

The main object of this Bill is 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 regulation and facilitating and enhancing health service delivery in the county by structuring the management of health facilities.

**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 World Health Organization, observance and protection of health rights of individuals and delivery of health services.

**PART II** of the Bill provides for Administration and Management of health services. The Part provides for the functions of the department responsible for health services,

The Part also provides for classification of health facilities as county hospital, sub-county hospital, health center, and dispensary and community health unit. It also provides for the establishment of respective management and administration which includes County and Sub-County Hospital Management Teams, the Board of hospitals and committees for health centers 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 county health facility 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 rights and duties of patients and health service personnel, the requirements that health services focus on health outcomes, the preparation of health promotion policies as well as primary health services, disease control, preparation of a ten-year health plan which will guide development in the health services sector. The Part also establishes each health facility as a planning unit for the purposes of budgeting and provision of health services and obligates the Executive Committee Member to establish specialized units such



as maternal health, child health and mental health. It provides for certification of quality management system, establishment of quality and compliance assurance unit, the conduct of inspections and audit, handling of complaints, reporting mechanisms and establishment of county health sector stakeholder's forum among others.

**PART IV** of the Bill provides for Private Health Sector Health services including licensing of private entities to operate health facilities; supervision of private health facilities and public private partnerships.

**PART V** of the bill provides for E-health and Health Information system

**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 and transitional provisions which includes the powers of the Executive Member to make Regulations and obligatory health policies and laws that the Executive Member must facilitate development of.

MOSES OGETO,  
*Member of County Assembly.*