

**SPECIAL ISSUE**

*Kenya Gazette Supplement No. 14 (Samburu County Acts No. 4)*



REPUBLIC OF KENYA

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**KENYA GAZETTE SUPPLEMENT**

**SAMBURU COUNTY ACTS, 2018**

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**NAIROBI, 6th June, 2019**

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**THE SAMBURU COUNTY HEALTH SERVICES ACT, 2018**

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**No. 4 of 2018**

*Date of assent: 3rd October, 2018*

*Date of commencement: See Section 1*

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**THE SAMBURU COUNTY HEALTH SERVICES ACT, 2018**

**AN ACT of the County Assembly of Samburu to provide for implementation of section 2 of Part 2 of the Fourth Schedule to the Constitution of Kenya on County health services and for connected purposes**

**ENACTED** by the County Assembly of Samburu as follows—

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

1. This Act may be cited as the Samburu County Health Services Act, 2018 and shall come into force upon publication in the *Gazette*.

**Interpretation**

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

“committee” means the Committee of Hospital, Health centre or Dispensary established under section 11;

“department” means the department responsible for county health services as assigned by the Cabinet;

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

“county health facility” for the purposes of this Act means a county public health facility;

“county health management team” means the County Health Management Team established under section 30;

“county health sector stakeholders forum” means the County Health Sector Stakeholders Forum established under section 40;

“executive member” means County Executive Committee Member responsible for County Health Services;

“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 to namely pharmaceuticals, non pharmaceuticals, nutraceuticals, vaccines 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;

“quality and compliance assurance unit” means the Quality and Compliance Assurance Unit established under section 34;

“sub-county health management team” means the County Health Management Team established under section 31.

### **Purpose 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 health systems approach as prescribed by World Health Organization;
- (b) health services shall be available, accessible, acceptable, affordable and of good quality and standard;
- (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—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) co-ordinate implementation of national health policies and laws at the county level;
- (d) co-ordinate public and private sector health programs and systems at the county level;
- (e) ensure compliance with standards for health facilities and health services;
- (f) manage day to day human resources under the Department;
- (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 agencies;
- (k) promote realization of health rights;
- (l) ensure that the purpose of this Act and the principles of health services provided under section 4 are realized;
- (m) carry out research and dissemination findings of research;
- (n) act as the repository of data, statistics and information related to health in the county;
- (o) monitor and evaluate the implementation of this Act; and
- (p) carry out any other function for realization of the purpose of the Act and as may from time to time be assigned by 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.

(2) Notwithstanding subsection (1), a county health facility may, in consultation with Executive Member, recruit such staff as are necessary on short term or part-time basis for the purposes of providing essential services.

(3) All issues relating to human resource for Health management will be guided by the following documents—

- (a) county public service human resource manual;
- (b) code of regulations;
- (c) other documents that may be enacted by the PSC/CPSB from time to time.

#### **Classification of the county health facilities**

7. (1) County health facilities shall be classified as follows—

- (a) county hospital;
- (b) sub-county hospital;
- (c) health centre;
- (d) dispensary; and
- (e) community health unit.

(2) The Cabinet may designate a county hospital to be a county referral hospital or County referral and teaching hospital.

#### **Establishment of health facilities**

8. (1) There shall be—

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

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

#### **Board of Hospital**

9. (1) A county and a sub-county hospital shall be governed by a Hospital Committee appointed by the Executive Member and approved by the Governor consisting—

- (a) a non executive chairperson;
- (b) the Medical Superintendent of the hospital who shall be an ex-official member and the secretary;



- (c) one officer of the department designated by the Executive Member from among members of county health management team or sub county health management team;
  - (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 the knowledge or experience in finance or accounting; and
  - (i) one person nominated by women organizations involved in provision of health services in the county or Sub County.
- (2) The Committee may invite the hospital Administrative officer and Hospital Nursing Officer to attend its meeting as they may deem appropriate.
- (3) A person shall not be eligible for appointment as a chairperson of a hospital unless the person —
- (a) posses at least a diploma from a recognized Institution; 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 certificate from a recognized institution;
  - (b) has at least five years experience in community health, administration, development 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.

**Office tenure**

(5) 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 after which the person shall retire from the Committee for at least three years before being eligible for reappointment.

(6) The Secretary shall provide secretariat services to the Committee.

**Functions of the Board**

10. 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 Committee of a health centre or dispensary programs for implementing county health strategies in the hospital;
- (d) approving estimates before submission to the Executive Member; and
- (e) carrying out any other function assigned by the Executive Member.

**Committee of a Health Centre or Dispensary**

11. (1) A health centre or dispensary shall be governed by a committee appointed by the Executive Member, consisting of—

- (a) non-executive chairperson;
- (b) the officer in-charge of the facility, who shall be the secretary;
- (c) one person representing faith based organizations or non-governmental organizations providing health services in the ward nominated by the joint forum of the organizations; and
- (d) two persons elected nominated by local community members in accordance with the prescribed procedure.

(2) A person shall not be eligible for appointment as a chairperson of a health centre or a dispensary unless the person—

- (a) posses at least a certificate 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), (c) and (d) unless the person—

- (a) possesses at least a certificate from a recognized institution;
- (b) has at least three years experience in community health, development administration leadership; and
- (c) a resident in the ward.

(4) The term of office of a member appointed under sub section (1) (a), (c) and (d) shall be three years which may be renewed for one further and final term after which the person shall retire from the Committee for at least three years before being eligible for appointment to the Committee.

#### **Conduct of Business**

12. (1) The conduct and regulation of the business and affairs of the 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 committee established under section 9 and 11 may regulate its own procedure.

#### **Removal from Office**

13. (1) A person appointed under section 9 and 11, may—

- (a) at any time resign by issuing notice in writing to the Executive Member;
- (b) be removed from office by the Executive Member 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 Committee permission without of the Management of county health facilities;
  - (v) incompetence; or
  - (vi) bankruptcy.

**Management of County Health Facilities**

14. (1) Subject to section 9 and 11 —

- (a) the Medical Superintendent shall be responsible for the day to day management of a hospital; and
- (b) the officer in charge of the a health centre or a dispensary shall be responsible for the day to day management of the health centre or dispensary.

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

**Operational Guidelines and Standards for Administration of Health Facility**

15. (1) Subject to the national policy, standards and norms, and in consultation with the National Government, the Executive Member shall prescribe for 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 maybe necessary for the purposes of effectively carrying out their functions.

**PART III—HEALTH SERVICE DELIVERY****Requirements for Health Service Delivery System**

16. The Department and each county health facility adopts 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 or non personal to the targeted users when they are

needed; and

- (j) adequately resourced.

#### **Co-operation and Collaboration**

17. The Department shall ensure that there is effective cooperation and collaboration with National Government and other county governments in delivery of health services.

#### **Rights of Health Care Personnel**

18. 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**

19. 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, Rights and Duties of a patient. 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**

20. (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
  - (f) if so requested, to sign a discharge certificate or release of liability if he or she refuses to accept or implement recommended treatment.

### Consent

21. 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/verbal to grant consent on his or her behalf confidentiality; or
  - (ii) authorized to give such consent in terms of any law or court order.
- (b) the patient is unable to give informed consent and no person is mandated or authorized 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 authorized by an applicable law or court order;
- (d) the patient is being treated in an emergency situation;
- (e) failure to treat the user, or a group of people which includes the user, 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 his or her death or irreversible damage to his or her 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.

### **Confidentiality**

22. (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.

### **Health Policies and Measures**

#### **Health Outcomes**

23. (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**

24. (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 well-being;
- (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 promotion; and for health; 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-departmental Committee for co-ordinating development and implementation of cross-sector health promotion policies stipulated under this section.

(4) The Committee established under subsection (3) shall consist of all relevant county government department or agency 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 Cabinet for consideration.

**Primary Health Care**

25. (1) The community unit, dispensary and health centre shall be the basic units of primary health care.

(2) The Department shall develop and co-ordinate 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 center is resourced sufficiently in order to enable it provide primary health care.

### **Disease Control**

26. (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 27 as well as policy, design and implementation.

(3) The department or a county health facility health plan 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.

(6) The Executive Member shall within twelve months upon the commencement of this Act, cause to be prepared the health related laws and policies stipulated under the Second Schedule.

### **Health Planning and Management**

#### **Health Plan**

27. (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 Planning units. Promotion as stipulated under section 24;
- (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 Cabinet.

#### **Planning Units**

**28.** (1) Each county health facility established under section 7 shall be a planning unit.

(2) Each planning unit shall —

- (a) develop five year strategic plan which shall be approved by the respective 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 27.

#### **Specialized Units**

**29.** (1) The Executive Member shall in County Health Management Team. 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 Member shall ensure that the specialized units—

- (a) established under this section are equitably distributed within the county;
- (b) described under section (2) (a), (b) and (c) are established within one year upon the commencement of this Act; and
- (c) are established and managed as model specialized units and centres of excellence in their respective areas of specialization.

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

#### **County Health Management Team**

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

(2) The health management team shall consist of—

- (a) the 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; and
- (d) the medical superintendents of the county hospitals.

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

- (a) co-ordinating implementation of this Act and other health policies in the County;
- (b) providing supervision and support to the management of the county health facilities and the sub-county health management teams;
- (c) exercising disciplinary measures over health personnel working in the County as may be prescribed under sub-section (6);

- (d) reviewing and monitoring the implementation of this Act and advising the department on appropriate measures to be adopted for effective implementation of this Act;
- (e) facilitating county health facilities in the sub county to comply with the established standards in accordance with section 33; and
- (f) carrying out any other sub-county health function as may be assigned by the Executive Member.

(4) The County Health Management Team shall convene at least one quarterly meeting with the sub-county health management team.

(5) The County Health Management Team shall prepare and submit quarterly report of its operations to the department, which shall inform the preparation of the reports under section 38.

(6) The Executive Member shall, in consultation with the County Health Management Team prescribe guidelines for governing operations of the County Health Management Team.

#### **Sub-County Health Management Team**

31. (1) there is established in each sub-management team 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 sub county hospitals; and
- (e) any other officer as the Executive Member may designate in consultation with the County Health Management Team.

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

- (a) co-ordinating 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 33; and
  - (h) carrying out any other function as may be assigned by the Executive Member.
- (4) The Sub county health management team shall prepare and submit quarterly report of its operations to the county health management team.
- (5) The Department shall provide secretariat services to the County and Sub County Health Management Teams.
- (6) The Executive Member shall in consultation with the County Health Management Team and the Sub 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**

- 32.** (1) The Department shall establish a county health information system that 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) collate the prescribed data and information from private health service providers; and

- (c) ensure that data and statistics health by the Department are accessible to any member of the public or to any Certification of Quality Management System government agency.

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

**33.** (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**

**34.** (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 33.

#### **Conduct and Compliance Assurance Unit**

**35.** (1) The Executive Member shall prescribe the standards and procedures for conducting inspections and health systems audit under section 34.

(2) The Quality and Compliance Assurance Unit shall—

- (a) 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 and sub county health Medical Supplies; and
- (b) a report of its operations to the Executive member every six months.

### **Medical Supplies**

**36.** 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, and storage and distribution systems for medical supplies.

### **Complaints Management**

**37.** (1) A person who is dissatisfied with a service provided by the Department or unit of the Department or a county health facility may lodge a complaint with the officer in charge of the department or facility.

(2) The department or a health facility shall establish a system of receiving and addressing complaints raised under this section.

(3) An officer described under subsection (1) shall, within forty-eight hours respond to the complaint lodged and take the appropriate action.

(4) A person who is not satisfied with the response provided under subsection (3) may lodge the complaint with the department and where the complaint relates to the department, the complaint shall be lodged with the Chief Officer.

(5) The department or the Chief Officer shall respond to the complaint within forty eight hours and take the appropriate action.

(6) The department shall prepare and submit a monthly report to the

Executive Member on matters related to the complaints lodged under subsection (4) and the actions taken.

### **Quarterly Reports**

**38.** 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**

**39.** (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 17;
- (c) the progress towards the implementation of the health plan prepared under section 27;
- (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 (place), 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 33;
- (j) progress and status of supervision and oversight over private health facilities as stipulated under section;
- (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 subsection (1);
- (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**

**40.** (1) There is established the County Health Sector Stakeholders Forum, which shall consist of all Government, faith based organizations, non-governmental organizations, private sector, 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 health services who shall be the secretary to the Executive Committee of the Forum;
- (c) the County Health Director;

- (d) county public health officer;
- (e) one person representing development partners in health services in the County;
- (f) one person nominated by the faith 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 with disabilities.

(4) The Committee shall be responsible for co-ordinating the activities of the forum and providing liaison between the stakeholders and the Department.

(5) The Executive Member 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.

#### **Supervision of Private Health Facilities in the County**

41. (1) 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.

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

- (a) faith based health facility;

- (b) for profit private health facility; or
- (c) not for profit private 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 licences; or
  - (b) shall not be granted the annual business permit or relevant county licences unless it complies with the prescribed policy and standards related to health facilities.

#### **Private Clinic**

Private clinic can only be opened by a qualified health professional (Medical Officers, Clinical Officers and Nursing Officers who is duly registered by the relevant regulatory authority—

- (a) before opening, submit a request to the CHMT and obtain relevant approvals;
- (b) the premises are subjected to an inspection by CHMT/SCHMT to ensure their suitability and receive approval;
- (c) ensure that the clinic is run by qualified/registered health professionals at all the times;
- (d) the premises housing a private clinic/Chemist will be subjected to quarterly inspection or on a need basis as may be necessary from time to time;
- (e) have a clear waste disposal mechanism in place;
- (f) ensure that they submit all routine reports as required by CHMT or any other agency on time (weekly, monthly, or quarterly) and
- (g) failure to compile with these requirements will lead to immediate closure and prosecution.

#### **Operating a private chemist**

- (a) A private chemist will be opened or operated only by pharmaceutical technologist or a pharmacist.
- (b) Every chemist should display a certificate of registration of the operator at all times.
- (c) All chemists will be expected to dispense drugs based on the signed prescription from Medical practitioner.

- (d) Failure to comply with above requirements will lead to closure, seizure of stock or prosecution in both.

### PART III—FINANCIAL PROVISIONS

#### Funds

42. (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)—

- (a) shall not be paid into the county revenue fund but shall be paid into a bank account operated by the health facility for that purpose; and
- (b) shall be utilized solely for provision of health services and development in the health facility where the funds are received or generated in and in accordance with the annual estimates of the health facility as approved by the Executive Member.

(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 Procurement Health laws and policies 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.

### **Procurement**

43. (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, 2005 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 (1) 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 IV—GENERAL PROVISIONS**

### **Health Laws and Policies**

44. 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.

### **Regulations**

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

**First Schedule**

(s.12) 40

**PROVISIONS AS TO THE CONDUCT OF BUSINESS AND  
AFFAIRS OF THE COMMITTEE****Meetings**

1. (1) The 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 sub paragraph (1), the chairperson may, and upon requisition in writing by at least half of the members shall, convene a special meeting of the Committee at any time for the transaction of the business of the Committee.

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

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

(5) The chairperson shall preside at every meeting of the 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 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 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 committee or other matter before the Committee and is present at a meeting of the 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 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 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 committee.

(3) Where the committee becomes aware that a member has a conflict of interest in relation to any matter before the committee, the 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 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 Committee and the member with the conflict of interest shall not vote on this determination.

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

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



**Second Schedule****(S. 44)****Laws and policies to be enacted or adopted**

1. Environmental health.
2. Occupational safety.
3. Public health.
4. Tobacco control.
5. Treatment and rehabilitation for alcohol and drug dependency.
6. Mental health.
7. Sanitation and water quality.
8. Food safety and control.
9. Ambulance services.

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