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**THE HEALTH RECORDS AND INFORMATION
MANAGERS ACT**

No. 15 of 2016

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**THE HEALTH RECORDS AND INFORMATION
MANAGERS ACT 2016**

AN ACT of Parliament to make provision for the training, registration and licensing of the health records and information managers; to regulate their practice; to provide for the establishment, powers and functions of the Health Records and Information Managers Board and for connected purposes

ENACTED by the Parliament of Kenya, as follows—

PART I—PRELIMINARY

1. This Act may be cited as the Health Records and Information Managers Act, 2016.

Short title.

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

Interpretation

“approved institute” means an institute for the training of persons seeking registration under this Act which has been declared by notice in the Gazette to be so approved by the Cabinet Secretary on the recommendation of the Board;

“Association” means the Association of Medical Records Officers of Kenya;

“Board” means the Health Records and Information Managers Board established by section 3;

“Cabinet Secretary ” means the Cabinet Secretary for the time being responsible for matters relating to health;

“College” means the Kenya Medical Training College established by the Kenya Medical Training College Act, or such other college as the Board may approve for the purposes of the Act;

Cap. 261

“Committee” means the Disciplinary Committee of the Board established by section 28;

“health institution” includes a hospital, nursing home, convalescent home, maternity home, health centre, dispensary, Clinic or other institution where health or health services are rendered, either free or on the payment of fees.

“health records and information management department” means part of a facility in a health institution

in which health records and information services are carried out;

“health records and information diploma” means a diploma in health records and information management or science issued by the Kenya Medical Training College or other similar institution approved by the Board;

“licence” means a licence granted to a manager under section 16;

“Manager” means a person who manages health records and information;

“medical practitioner” means a person registered under the Medical Practitioners and Dentists Act as a medical practitioner;

Cap 253.

“officer” means a manager who holds a diploma or a degree in health records and information management;

“private practice” means the practice of health records and information management, as the case may be, for a fee;

“public practice” means the practice of health records and information management in a public facility;

“private practitioner” means a person registered under this Act as either a health records and information manager licensed to maintain health records and information for a fee;

“Register” means the register of managers required to be maintained under section 17;

“Registrar” means the Registrar of the Board appointed under section 13;

“Technician” means a manager who holds a certificate in health records and information management; and

“Unqualified person” means any person who is not duly registered as a manager under the Act.

PART II—THE HEALTH RECORDS AND INFORMATION MANAGERS BOARD

3. (1) There is established a Board to be known as the Health Records and Information Managers Board.

Establishment of the Health Records and Information Managers Board.

(2) The Board is a body corporate with perpetual succession and a common seal and shall, in its corporate name, be capable of—

- (a) suing and being sued;
- (b) taking, purchasing or otherwise acquiring, holding, charging or disposing of movable and immovable property;
- (c) borrowing money or making investments; and
- (d) doing or performing all other acts or things for the proper performance of its functions under this Act which may lawfully be done or performed by a body corporate.

4. The Headquarters of the Board shall be in Nairobi, and the Board may establish offices in the Counties.

Headquarters of the Board

5. (1) The Board shall have all powers necessary for the proper performance of its functions under the Act and in particular, but without prejudice to the generality of the foregoing, the Board shall have power to—

Powers of the Board.

- (a) control, supervise and administer the assets of the Board in such manner and for such purpose as best promotes the purpose for which the Board is established;
- (b) determine the provisions to be made for capital and recurrent expenditure and for the reserves of the Board;
- (c) receive any grants, gifts, donations or endowments and make legitimate disbursements there from;
- (d) in consultation with the Cabinet Secretary, to enter into Agreement with other bodies or organisations within or outside Kenya as the Board may consider desirable or appropriate and in furtherance of the purpose for which the Board is established;
- (e) open a bank account or bank accounts for the funds of the Board; and
- (f) invest any funds of the Board not immediately required for its purposes;

(2) Subject to the Act, the Board may, either generally or in any particular case, delegate to any committee, member, officer, employee or agent of the Board, the exercise of any of the powers or the performance of the Board under the Act.

(3) The terms and conditions of service of the members of the Board shall be determined by the Board in consultation with the Cabinet Secretary and upon the advice of the Salaries and Remuneration Commission.

(4) The Board may appoint such officers and other staff as necessary for the proper discharge of its functions under this Act, upon such terms and conditions of service as the Board may determine.

(5) No matter or thing, done by a member or by any officer, employee or agent thereof shall, if the matter; or thing is done bona fide for executing the functions, powers or duties of the Board, render the member, officer, employee or agent personally liable to any action, claim or demand whatsoever.

6. (1) The Board shall—

- (a) establish and improve standards of all branches of the health records and information managers profession in all their aspects and to safeguard the interests of all managers;
- (b) establish and improve the standards of professional health records and information management in Kenya;
- (c) with the approval of the Cabinet Secretary, make provision for the training and instruction for persons seeking registration or enrolment under this Act;
- (d) with the approval of the Cabinet Secretary, prescribe and regulate syllabuses of instruction and courses of training for persons seeking registration or enrolment under this Act;
- (e) recommend to the Cabinet Secretary institutions to be approved institutions for training of persons seeking registration or enrolment under this Act;
- (f) with the approval of the Cabinet Secretary, prescribe and conduct examinations for persons seeking registration or enrolment under this Act;
- (g) have regard to the conduct of persons registered, enrolled or licensed under this Act, and take such disciplinary measures as may be necessary to maintain a proper standard of conduct among such persons;

Functions of the Board.

- (h) direct and supervise the compilation and maintenance of registers, rolls and records required to be kept under section 22;
- (i) advise the Cabinet Secretary on matters concerning all aspects of health records and information management.

(2) The Board shall, before the end of the month of June in each year, cause a report on the work carried out by the Board during the previous year, together with a statement of the accounts for that year, to be supplied to the Cabinet Secretary, and shall cause such further information as may be required by the Cabinet Secretary from time to time to be supplied to him.

(3) The Board shall meet at least four times and not more than twelve times in every financial year.

(4) The Chairperson may at any time convene a special meeting of the Board and shall upon a written request signed by at least four members, convene a special meeting within fifteen days of such a request.

7. (1) The Board shall consist of —

- (a) one appointee from the Director of Medical services.
- (b) the Deputy Director Health Records and Information Management, Ministry of Health;
- (c) the Director of technical training in the Ministry of Education for the time being responsible for Higher education;
- (d) one registered Manager, who shall be in private practice, to be nominated by the Board;
- (e) the Chairperson of the Association;
- (f) the Secretary General of the Association;
- (g) two managers, one in public practice and the other in the private practice appointed by the Cabinet Secretary; and
- (h) one other member co-opted by the Board from time to time whose knowledge and experience is deemed necessary for the better performance of its functions.

Composition of the Board.

(2) The Registrar who shall be a registered manager shall be the Secretary to the Board.

(3) The Board may appoint functional committees on finance, standards and education, registration and licensing, human resource, discipline and ethics for the effective performance of its functions.

8. (1) No person shall be qualified for appointment or election as a member of Board if the person—

Disqualification
from office and
filling of vacancies

(a) is an undischarged bankrupt; or

(b) has his or her name removed from the appropriate register or his or her registration or licence suspended under section 18.

(2) A member of the Board shall vacate office if he or she—

(a) becomes subject to any of the disqualifications referred to in subsection (1); or

(b) has been absent from more than two consecutive ordinary meetings of the Board without its leave; or

(c) gives notice in writing to the Board of his desire to resign from office and his resignation is accepted.

(3) Every vacancy caused by the death of a member or by vacation of office under subsection (2) shall, in the case of a member appointed by the Cabinet Secretary, be filled by a person appointed by the Cabinet Secretary, and in every other case, unless the Board otherwise decides, shall be filled by a person appointed by the Board and every person so appointed shall hold office for the residue of the term for which his predecessor was appointed or elected.

9. (1) The Board shall elect from among its members a chairperson and vice-chairperson who shall serve for a term of three years.

Chairperson of the
Board

(2) The vice-chairperson shall in the absence of the chairperson discharge the duties of the chairperson.

(3) In the absence of both the chairperson and the vice-chairperson, the members present shall elect a member to preside at the meeting.

(4) Where a chairperson or vice-chairperson for any reason vacates office before the term expires, a new

chairperson shall be elected in the manner specified in sub section (1) in a meeting first scheduled immediately after the vacation of the holder.

(5) Notwithstanding the provisions of this section, the Cabinet Secretary may, if at any time it appears to him that the Board has failed to carry out any of its functions under this Act in the national interest, revoke or annul the appointment, nomination or election of any member of the Board and may himself nominate a new member in the place of that member for the remainder of the period of that member.

10. The members of the Board shall hold office for a period of three years from the date of their appointment, nomination or election, as the case may be, but shall be eligible for re-appointment, re-nomination or re-election for one further term.

Terms of office of the Board.

11. (1) The conduct and regulation of the business and affairs of the Board shall be as provided in the Schedule.

Conduct of business and affairs of the Board.

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

12. The Board may, by resolution either generally or in any particular case, delegate to any committee or to any member, officer, employee or agent of the Board, the exercise of any of the powers or the performance of any of the functions or duties of the Board under this Act or under any other written law.

Delegation by the Board

13. (1) The Board shall, with the approval of the Cabinet Secretary, appoint a Registrar who shall be a registered Manager and who shall perform such duties as may be prescribed by this Act or directed by the Board.

Registrar.

(2) The Board may, with the approval of the Cabinet Secretary, appoint such other officers as the work of the Board may require, and those officers shall perform such duties as the Board may direct.

(3) The Registrar shall keep up to date or cause to be kept up to date all registers and records required to be kept under or for the purposes of this Act, subject to any directions which may from time to time be issued to him by the Board.

(4) The Registrar and other officers appointed under this section shall be paid such remuneration and allowances

as the Board, with the approval of the Cabinet Secretary, may from time to time determine.

(5) The Registrar shall perform such duties as prescribed by this Act

14. The Registrar shall be a person who—

Qualifications of Registrar

- (a) has successfully attended a course of instruction for Managers prescribed by the Board, at any approved training institution in Kenya; or
- (b) has attended a course of instruction for managers recognised by the Board as equivalent to the course prescribed, at any training institution outside Kenya approved by the Board; or
- (c) holds such other qualifications as the Board may prescribe, and
- (d) has completed such approved period of probation as may be prescribed by the Board.

PART III—TRAINING AND REGISTRATION OF HEALTH RECORDS AND INFORMATION MANAGERS

15. (1) A person shall be eligible for registration under this Act as a health records and information manager if the person—

Persons eligible to be registered.

- (a) is the holder of at least a diploma in health records and information management which is recognised by the Board;
- (b) after obtaining that qualification, has engaged in training employment under the supervision of a registered health records and information manager for such period, being not less than six months, as the Board may approve;

(2) The Board shall approve the suitability for registration of a person under paragraphs (a) and (b) through such examinations as may be administered by the Board from time to time.

16. (1) A person may apply to the Board for registration under this section.

Application for registration

(2) Every application under sub-section (1) shall be in the prescribed form and shall be accompanied by such fee as may be prescribed by the Board.

(3) The Registrar shall upon the recommendation of the Board consider every application made under this section and shall register the applicant if satisfied that the applicant is—

- (a) duly qualified in terms of this section;
- (b) a Kenyan citizen and
- (c) is a fit and proper person to be so registered.

(4) The Registrar shall register every qualified person by entering his name, address, professional qualifications and such other particulars as the Board may prescribe, in the register kept for that purpose pursuant to section 17.

(5) The Registrar shall, on payment of the prescribed fee, issue a certificate of registration to every person registered under this Act.

(6) A fee to be known as a retention fee, may be prescribed for payment annually or at such intervals as the Board may deem appropriate by any person whose name appears on a register as a condition of maintaining the name thereon.

17. (1) The Registrar shall maintain a register of Managers with respective categories reflecting their areas of specialty.

Maintenance of register.

(2) The Registrar shall, not later than the last day of March in every year, cause to be published in the Gazette, the names and addresses of all Managers Registered in the previous year.

18. The Registrar shall remove from the register—

Removal of names.

- (a) the names of all deceased persons;
- (b) the names of all persons struck off from the register any entries fraudulently or erroneously made.

19. (1) A person, being in charge of a training institution in Kenya shall not—

Approved training institutions.

- (a) admit persons for training for the purpose of qualifying for registration under this Act;
- (b) conduct a course of training or administer the examination prescribed for the purposes of registration under this Act; or

- (c) issue any document or statement implying that the holder thereof has undergone a course of training or passed the examinations prescribed by the Board for purposes of registration;

unless the training is to be conducted by the Kenya Medical Training College or an institution approved and accredited by the Kenya Medical Training College or is established or accredited under the Universities Act, 2012.

No 42 of 2012

(2) The Board shall make Regulations to prescribe the procedure for approving and accrediting training institutions for the purposes of this section.

20. (1) If there is a conflict between the provisions of this Act and the provisions of the Universities Act in matters relating to approval or accreditation of academic programmes offered by Universities or any other part, the provisions of the Universities Act shall prevail.

Limitation of powers on approval or accreditation of university academic programmes

(2) Despite the provisions of this Act, the approval or accreditation of academic programmes offered at a university shall be the exclusive mandate of the Commission for University Education established under the Universities Act to be exercised in accordance with the Universities Act at the exclusion of any other person or body, but the Commission shall consult the Board before approving an academic programme in the field of health record and information management.

21. (1) No person shall practice as a Manager unless that person is registered under this Act.

Conditions of practice and penalty

(2) A person who contravenes the provisions of subsection (1) above, commits a criminal offence and shall be liable on conviction to imprisonment for a term not exceeding five years or a fine not exceeding five million shillings, or to both.

(3) No person shall, while in charge of a health institution or any Health Records and Information Department in Kenya employ any person who is not registered under this Act as a Manager.

(4) A person who contravenes the provisions of subsection (3) above; commits a criminal offence and shall be liable on conviction to a fine not exceeding four million shillings or imprisonment for a term not exceeding five years, or to both.

(5) A person who wilfully makes a false or misleading statement or utters a false certificate in an application for registration under section 16, commits an offence and shall be liable on conviction to a fine not exceeding four million shillings, or to imprisonment for a term not exceeding five years, or to both.

22. (1) The Registrar shall, under the direction of the Board, compile and maintain custody of—

Custody of registers

- (a) a register of Technicians;
- (b) a register of Officers; and
- (c) such other registers as may from time to time be prescribed by the Board with the approval of the Cabinet Secretary.

(2) Subject to the payment of a retention fee, there shall be entered and maintained in the appropriate register the name and address of every person entitled to be registered under this Act together with his professional qualifications and such other particulars as may be prescribed by the Board.

23. Except as otherwise provided in this Act or in any Regulations made thereunder, a person shall be entitled to registration on the appropriate register upon satisfying the Board that the person—

Qualifications for registration

- (a) is of good character;
- (b) has paid the prescribed registration fee; and
- (c) has undergone a prescribed course of instruction and passed the examination conducted or prescribed by the Board or has undergone a course of training and passed an examination which the Board recognizes as equivalent to the training and instruction prescribed under this Act.

PART IV—PROVISIONS RELATING TO PRIVATE PRACTICE AND GENERAL LICENCING

24. (1) A person shall not engage in private practice unless such person—

Private practice

- (a) is a citizen of Kenya;
- (b) is registered as a Manager under this Act;
- (c) has served in his category for a period of not less than three years;

- (d) holds an annual licence for that year;
- (e) is a holder of such other qualification as may be prescribed by the Board.

(2) Notwithstanding the provisions of subsection (1), a person who is not a citizen of Kenya may be licensed to practice as a Manager if he satisfies the Board that such person—

- (a) is of good character;
- (b) has paid the prescribed fee;
- (c) has undergone a course of training and passed an examination equivalent to the training and examination prescribed under the Act.

(3) A licence issued under subsection (2)—

- (a) shall be for such period and for such purpose as the Board may prescribe;
- (b) may, on its expiry, be renewed for such period, not exceeding one year, as the Board may prescribe.

(4) Where a licence issued under subsection (2) is renewed, details of the renewal shall be entered in the appropriate register.

(5) Where a licence issued under subsection (2) expires and is not renewed within thirty days of expiry, the name of the holder of the licence shall be removed from the register and the Board may decline further requests for renewal of such a licence or impose a prescribed levy on such further requests.

(6) For the purposes of this Act, a Manager shall be deemed to engage in private practice if—

- (a) he or she practices on his own account and is entitled to receive, for his or her own financial benefit, the entire amount of all fees and charges;
- (b) he or she practises in partnership with others and is entitled to receive, for his or her own financial benefit, a share of the fees and charges;

(7) A person shall not be deemed to engage in private practice as a Manager if such person is employed by—

- (a) the Government or any other public body;
- (b) any person or employer where all fees and charges accrue to the person or employer

despite the fact of him or her being employed in his professional capacity as a Manager.

(8) An application for a practising certificate or its renewal shall be made to the Board in the prescribed form and shall be accompanied by such fee as the Board may from time to time determine.

(9) The Board shall issue to such person a practising certificate for that year if it is satisfied that the person fulfils the requirements set out in subsection (1) and has paid the fee referred to in subsection (8) of this section.

(10) A practising certificate shall be valid from the date on which it is issued and shall expire on the thirtieth day of December of every year unless its holder ceases to be a registered person under this Act.

(11) Where a practising certificate ceases to be in force in accordance with subsection (8), the person to whom the certificate was issued shall deliver it to the Board within thirty days from the date on which he or she ceases to be registered.

(12) Any person who contravenes subsection (1) or (2), in addition to being culpable of professional misconduct, commits an offence and is liable to a fine not exceeding Three million shillings or to imprisonment for a term not exceeding one year, or to both.

PART V—OFFENCES

25. (1) Any person who, not being eligible to be registered or licensed under this Act, uses any title appropriate to a person so registered or licensed, or holds himself out directly or indirectly as being so registered or licensed, or wears any uniform, badge or other distinguishing device prescribed for the use of persons so registered or licensed, or any imitation thereof, commits an offence and shall be liable to a fine not exceeding three million shillings or imprisonment for a term not exceeding two years or to both.

Offences by persons not eligible to be registered, or licensed.

(2) Any person who, not being eligible to be registered or licensed under this Act, practises for gain as a Health Records and Information Manager, except in an area which the Cabinet Secretary has, by notice in the Gazette, determined to be suitable for such practice by persons who are not so registered or licensed, or, except in

such circumstances as may be specifically laid down in Regulations made under this Act, commits an offence and shall be liable to a fine not exceeding three million shillings or imprisonment for a term not exceeding two years or to both.

26. (1) Any person who, though eligible to be registered or licensed under this Act, is not so registered or licensed and who practices as a Health Records and Information Manager, commits an offence and liable to a fine not exceeding one million shillings or imprisonment for a term not exceeding six months.

Offences by persons eligible to be registered or licensed

(2) Any person who, being registered or licensed under this Act—

- (a) holds himself out, directly or indirectly, as being—
 - (i) registered in any register under this Act in which his name is not registered ;
 - (ii) licensed under this Act to do anything which he is not licensed to do; or
- (b) uses any name, title or description other than that which he is entitled to use under this Act, commits an offence and on conviction shall be liable to a fine not exceeding one hundred thousand shillings or imprisonment for a term not exceeding six months.

27. (1) Any person, being in charge of any health or other institution which is not approved by the Board as an institution for the training of persons seeking registration or enrolment under this Act, who—

Offences by persons conducting training courses or examinations without authority.

- (a) admits to the institution under his charge any person for the purpose of training in any of the categories of Health Records and Information Managers in respect of which provision is made for registration or enrolment under this Act;
- (b) purports to be conducting courses of training or examinations under this Act or Regulations made thereunder;
- (c) issues any document, statement, badge, seal or uniform implying that the institution under his charge is approved by the Board as an institution

for training of persons seeking registration or enrolment under this Act;

- (d) issues any document, statement, certificate, badge or seal implying that the holder thereof has undergone a course of instruction or passed an examination prescribed by the Board, commits an offence and on conviction shall be liable to a fine not exceeding three million shillings or imprisonment for a term not exceeding two years or to both.

(2) Any person who purports to conduct examinations on behalf of the Board while not being authorized by the Board so to do commits an offence and on conviction shall be liable to a fine not exceeding three million shillings or imprisonment for a term not exceeding two years.

PART VI—DISCIPLINARY PROVISIONS

28. (1) There is established a Disciplinary Committee of the Board, which shall consist of—

Disciplinary
Committee.

- (a) the chairman of the Board, or a nominee thereof who shall be the chairman of the Committee;
- (b) one representative of the Cabinet Secretary who shall not be a member of the Board;
- (c) a representative of the Attorney-General;
- (d) a representative appointed by the Institute of Certified Public Secretaries;
- (e) two Managers, one each from public and private practice, of distinguished professional standing nominated by the Board, who shall not be member of the Board; and
- (f) the Registrar who shall be an ex-officio member of the Committee.

(2) The Board may refer a matter to the Committee if it has reason to believe that any person registered as a Manager, either before or after he became registered—

- (a) has been convicted by a court of law of an offence punishable by imprisonment for more than six months, the commission of which in the opinion of the Board has dishonoured him or her in the public estimation; or