NYAMIRA COUNTY GAZETTE SUPPLEMENT

ACTS, 2015

NAIROBI, 22nd January, 2015

CONTENT

Act—

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THE NYAMIRA COUNTY HEALTHCARE SERVICES FUND ACT, 2015

No. 6 of 2015

Date of Assent: 20th January, 2015

Date of Commencement: 22nd January, 2015

AN ACT of the County Assembly of Nyamira to provide for the management of health facilities and funds and to enable sustainable operations of health facilities and such other related matters.

ENACTED by the County Assembly of Nyamira, as follows—

PART I — PRELIMINARY

1. This act may be cited as the Nyamira County Health Care Services Fund Act, 2015 and shall come into operation on the date of publication in the County Gazette.

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

   “Board” means the board established under Section 5;

   “Financial year” means the period of twelve months beginning 1st July ending on the 30th June of the subsequent year;

   “Fund” means Health Care Services Fund established under section 4;

   “Hospital” means gazetted county or sub-county hospital including registered faith based equivalent health facilities;

   “Health facility/establishment” means hospitals, health, mobile clinics and dispensaries

   “Executive Committee Member” means the County Executive Committee Member for the time being responsible for matters relating to County Health Services;

   “County health services board” means the County Health Services Board established under section 5(i);

   “Officer administering the fund” means the accounting officer of the County Department for the time being responsible for matters relating to Health Services;

   “User charges” means cost-sharing charges.
3. The purpose of this Act is to provide a legal framework

(1) Authorise health facilities, retain monies received in accordance with provisions of Section 109 (2)(b) read together with section 116(1) of the Public Finance Management Act, 2012.

(2) The nomination and appointment of health facilities management boards and committees and provide framework for performance based financing of health service in order to—

(a) sustainably operate and maintain, equip, rehabilitate health facilities, procure emergency medical supplies in health facilities in the county; establishment of health care services fund

(b) enhance capacity and participation of host communities to plan and manage the resources under them;

(c) provide social protection mechanism for the vulnerable people in the county through financing and promotion of health indemnity schemes;

(d) create mechanism for health facilities to sustainably generate resources

(e) provide funding for operations research and;

(f) provide funds for health related emergencies and disaster

(g) establish a county health system which; encompasses public and private providers of health services and provide in an equitable manner the population of the county and with the best possible health services that available sources can afford.

PART II — THE COUNTY HEALTHCARE SERVICES FUND

4. (1) There is established in each health facility a Health Care Services Fund

(2) The fund shall consist of—

(a) such monies as may be appropriated by the County Assembly for the direct use by the health
facilities;
(b) sums received as contributions, gifts or grants from any lawful source;
(c) monies earned or received as user charges;
(d) income generated from the proceeds of the services;
(e) income generated from environmental health services;
(f) funds from the free maternity service; and
(g) national Hospital Insurance Fund.

(3) The expenditure incurred by a Health facility on the services shall be on the basis of, and limited to, the annual allocation or grants and authority to incur expenditure;

(4) The receipts, earnings, accruals and the balance of the services at the close of each financial year shall not be paid into the County Revenue Fund but shall be retained by the respective health facility as part of the fund, for the purpose for which the service is established;

(5) An amount not less than twenty-five per cent of monies received on account of subsection 1 (b), (c), (d), (e) and (f) shall be remitted to the County Health Services Management Board to be utilized for funding activities under Section 3 (2) (v) and (vi) of this act.

A. ADMINISTRATION OF THE FUND

5. (1) There is established the Nyamira County Health Services board.

(2) The Board shall consist of —

(a) a chairperson to be appointed by the Governor on recommendation from the Executive Committee Member for the time being responsible for health services.

(b) the Chief Officer of the County department for the time being responsible for matters relating to Health Services who shall be the administrator of the fund;

(c) the Chief Officer of the County department for
the time being responsible for finance or his representative duly nominated by him/her in writing;

(d) the County Director of Health Services;

(e) three persons of whom two shall be women appointed by the Executive Member of which;

(i) one person shall be appointed by virtue of his/her knowledge or experience in financial management;

(ii) one person shall be appointed by virtue of his/her experience in health care services management; and

(iii) one person shall be appointed by virtue of his/her expertise and experience as a medical practitioner;

(f) one person nominated by faith based hospital association or network in the county appointed by the Executive Committee Member for the time being responsible for health services.

(3) The Board shall execute its functions through the administrator of the fund.

6. The Nyamira County Health Services Board shall—

(a) Prepare a strategic health management and improvement scheme;

(b) Co-ordinate and issue authority to incur expenditure to the health facilities management boards and committees;

(c) Approve the work plans prepared by the health facilities;

(d) Ensure equitable distribution of resources to the health facilities, health management teams;

(e) Review and approve disbursements or utilization of the fund;

(f) Provide overall management and oversight of the fund;

(g) advise the Executive Member for health services on the appropriate guidelines and
procedures for better management of the fund.

7. The County Board may delegate to the Health facilities management board or committee, to the accounting officer of the Department for the time being responsible for health services/administrator of the fund or any appropriate person of a health facility/establishment where it deems necessary.

8. (1) The conduct and regulation of the business and affairs of the Board shall be as set out in the schedule and shall be in accordance with this act.

(2) Except as provided in the schedule, the board may regulate its own procedures.

(3) The remuneration of the members of the board shall be determined by the County Public Service Board.

9. Administration of the fund shall be administered by the accounting officer of the department for health services and designated by the County executive Committee member for health.

10. The Officer administering the Fund shall —

(a) prepare, sign and transmit to the County Health Services Board and County Treasury in respect of each financial year and within three months after the end thereof, a statement of account relating to the Fund specifying all contributions to the Fund and the expenditure incurred from the Fund, and such details as the treasury may from time to time direct, in accordance with the provisions of the Public Finance Management Act, 2012;

(b) furnish such additional information as may be required that is proper and sufficient for the purpose of examination and audit by the County Head of Audit and Auditor-General in accordance with the provisions of the Public Audit Act,

(c) develop the criteria for the allocation of funds for approval by the Board;

(d) prepare in consultation with the health facility board/committees a schedule of annual
distribution of resources to health facilities;

(e) Prepare in consultation with the County Health Board, impose conditions on the use of expenditure authorized by him or on his behalf and may impose any reasonable prohibition, restriction or other requirement concerning such use of expenditure;

(f) institute prudent measures for the proper utilization for monies deposited in the Funds using suitable internal controls and appropriate mechanism for accountability including audit of accounts by internal auditors;

(g) cause to be kept proper books of accounts and records relating to all receipts, payments, assets and liabilities of the Fund and to any other activities and undertakings financed by the Fund;

(h) supervise and control the administration of the Fund and be the accounting officer of the fund.

11. There are established Hospital Management Boards for the county hospital and each of the sub-county hospitals.

12. (1) The Board shall constitute seven and nine members for sub-county and county hospitals respectively.

(2) At least one third of the membership shall be from the opposite gender and membership should reflect the face of the sub-county.

(3) The Board shall consist of—

(a) the area sub-county administrator appointed under Section 50(1) of the County Governments Act, 2012 or his representative duly nominated by him in writing;

(b) the area Deputy county commissioner appointed under Section 15(b) of the National Government Co-ordination Act, 2013 or his representative nominated in writing;

(c) the medical superintendent who, shall be the secretary;

(d) a person with knowledge and experience on
health matters; and

(e) the following persons, of which one third must be either gender who shall be residents of the area of jurisdiction, appointed by the Executive Committee Member for the time being responsible for health services —

(i) one person who shall have knowledge and experience in finance and administration matters;
(ii) one person to represent special interest and
(iii) one person who shall represent the people with disability; and
(iv) one person to represent the youth.

(f) The local member of the county assembly who shall be an ex-officio member.

(4) The Chairperson shall be appointed by the Governor on the recommendation of the County Executive Committee Member responsible for matters related to Health

(5) A person shall:

(a) not be appointed chairman unless he/she;

(i) hold at least a university degree from a recognized university.
(ii) have demonstrated high level of integrity and leadership at senior level either in public or private sector;
(iii) not be a serving state officer.

(b) the responsibilities of the chairman appointed under section 12(4) of this act shall be;

(i) Setting schedules of meetings in consultation with the board members.
(ii) presiding over the board meetings.
(iii) overseeing all sub committees of the board.
(iv) the person satisfies the provisions of chapter 6 of the Kenya Constitution 2010.
(v) any other duty as may be assigned by the
executive committee member for the time being responsible for health services or his/her assignees and the county board established under section 5(1) of this act.

(c) The responsibilities of the secretary to the board shall be:

(i) keep records of the deliberations of the board.

(ii) communicate decisions of the board to all the staff and relevant bodies and offices.

(6) A person shall not be appointed as a member of the Board under Section 11(3) (e) of this act unless that person holds at least O-level certificate of education or its equivalent.

(7) A member of the Board, apart from the ex-officio, shall hold office for a period of three years and shall be eligible for appointment for one further term.

(8) The Board shall meet four times a year and shall maintain records of its deliberations.

(9) Copies of deliberations and records in (4) above should be forwarded to the county board not more than one month after the hospital board meeting.

(10) The quorum for the meeting of the Board shall be half plus one of all the members excluding the Secretary.

(11) The Board shall be responsible to the officer administering the Fund.

13. (1) The respective hospital boards shall —

(a) supervise and control the administration of the funds allocated to the respective hospitals;

(b) open and operate a bank account at a bank to be approved by the County Executive member responsible for matters related to finance in the county

(c) prepare work plans based on the county health sector strategic plan;

(d) cause to be kept books of accounts and records of accounts of the income, expenditure, assets and liabilities of the hospital as prescribed by the
officer administering the Fund;
(e) cause to be prepared and submitted to the administrator of the fund monthly, quarterly and annual financial reports as prescribed; and
(f) cause to be kept a permanent record of all its deliberations.
(2) (a) The hospital board shall execute its functions through subcommittees.
(b) There shall be four subcommittees:
(3) Executive Committee whose membership shall be;
(a) Chairperson of the hospital board.
(b) Chairpersons of two subcommittees (Finance & General Purpose Committee and the Quality of Health Services Committee).
(c) Secretary of the hospital board.
(d) The members of the hospital executive expenditure shall be ex-officio members.

The function of this subcommittee is to prepare agenda for board meetings, advise the board on matters related to its functions and make recommendations for consideration by the board.

(4) Finance and General Purpose Committee whose membership shall be;
(a) Not more than five members with two members from the hospital board and three from the hospital departments
(b) The subcommittee will elect chairman from among the five members.

The function of the subcommittee shall be to review the hospital budgets, review fiscal management of the hospital, its assets and liabilities and make recommendations to the board. It may also perform any other function as directed by the board.

(5) (a) Quality of Health Services subcommittee whose membership shall be;
(i) Not more than five members with at least two from the hospital board and the rest
from the hospital departments

(ii) The sub committee will elect the chairman from among the five members

(b) (i) The function of the subcommittee shall be to establish and maintain a hospital quality improvement program

(ii) Review the hospital quality assessment reports and make recommendation to the board

(iii) Any other function as directed by the board.

(6) Special and Ad hoc Committee

The chairman of the board can constitute a special and ad hoc committee to deal with any urgent matters or assist the board in any specific issues pertaining to its responsibilities

14. (1) There is established health centres and dispensaries management committee in each health centre and dispensary.

(2) The committee shall be of not less than seven and not more than nine members.

(3) The Committees shall consist of—

(a) a ward administrator in the area of jurisdiction

(b) the officer in charge of the health facility, who shall be the secretary;

(c) the area chief or assistant chief

The County Executive Member in consultation with the area Member of the County Assembly shall nominate the following persons who shall be residents of the area of jurisdiction

(i) one person who shall have knowledge and experience in finance and administration; and

(ii) two persons who shall be of either gender and one youth representative

(d) The local member of the county assembly who shall be an ex-officio member.
(e) at least 5% of the committee members shall be people with disability.

(4) The Committees shall nominate the chairman from among themselves, who shall not be an ex-officio member, from any of the persons set out in subsection (3) above and who shall have a minimum academic qualification of Kenya Certificate of Secondary Education.

(5) A member of the Committees, apart from the ex-officio member, shall hold office for a period of three years and shall be eligible for re-appointment for one further term.

(6) The Committees may, if necessary, appoint sub-committees from its members that shall carry out specific functions.

(7) The Committees shall meet four times in each financial year and shall maintain records of its deliberations.

(8) The quorum for the meeting of the Committees shall be five of all the members excluding the secretary.

(9) The Committee shall be responsible to the officer administering the Fund.

The Committee shall—

(a) supervise and control the administration of the funds allocated to the facilities;

(b) open and operate a bank account at a bank approved by the County Executive Committee member responsible for finance;

(c) cause to prepare work plans and procurement plans;

(d) cause to be kept books of accounts and records of accounts of the income, expenditure, assets and liabilities of the facility as prescribed by the officer administering the Fund;

(e) prepare and submit certified periodic financial and performance reports as prescribed;

(f) cause to be kept a permanent record of all
its deliberations.

(9) The Chairman and Secretary of the Committee shall perform functions spelt out in section 12(5)(b) and 12(5)(c) of this act respectively.

15. (a) at the end of each quarter, the responsible hospitals will prepare a quarterly budget, quarterly implementation and procurement plan;
(b) the quarterly budget shall where appropriate indicate how much resources the hospital has raised to finance their quarterly budget and the deficit;
(c) the budget together with quarterly implementation and quarterly procurement plan shall be submitted to the hospital board/committee for approval;
(d) the approved budget shall then be submitted to the administrator of the funds for consideration and action;
(e) on approval of the County Board, the administrator of the funds will prepare a schedule to the county treasury indicating the additional funds the treasury needs to disburse to the health facilities to finance their budgets;
(f) the schedule in (e) above shall be accompanied by an authority to incur expenditure;
(g) the funds shall be disbursed to the health facilities not more than fourteen days after appropriate documentation have been submitted to the county treasury;
(i) all the spending units shall prepare monthly, quarterly and annual financial reports in a prescribed format to the county health services committee.

16. (1) The remuneration of the board shall be as set out in Schedule 2 of this act.

(2) The remuneration shall be payable for four full board meetings annually and any other subcommittee meetings which shall not exceed four in a quarter.
Nyamira County Healthcare Services Fund

17. (a) (i) a bank account of the fund shall be opened and maintained at a commercial bank approved by the Executive Committee Member in charge of finance;

(ii) the signatory to the accounts of the fund maintained by the county board shall be...
(b) The purpose of the fund shall be to;

(i) trigger uptake of health insurance by supporting at least 40 vulnerable people from each ward to pay for annual National Hospital Insurance Fund (NHIF) premiums;

(ii) social market and promotion of uptake of health insurance by county residents;

(iii) mobilize funds to support health services from health insurance enrolments.

20. (a) (i) the county executive responsible for county health shall in consultation with the ward leaders constitute an ad hoc selection committee in each ward whose term elapses automatically on acceptance of the selected beneficiaries in regard to 19(a)(i) above;

(ii) the committee shall have minimum of three and maximum of five members;

(iii) the appointed members shall nominate a chairman and secretary among themselves for appointment by the county executive committee member responsible for county health services;

(iv) the members shall have at least -O- Level education;

(v) shall be residents of the ward currently living in the ward;

(vi) persons who meet the thresholds of integrity set out in Chapter Six of the Kenya Constitution 2010;

(vii) religious leader of good standing from the area;

(b) nothing in this act prohibits the selection committee from enlisting assistance of a social worker to aid in execution of its functions.

(c) (i) the County Board shall develop selection criteria for the beneficiaries to be approved by the county executive committee and county assembly;
(ii) The list of the selected beneficiaries from each ward shall be submitted to the county board for consideration and approval;

(iii) approved list with a schedule of beneficiaries shall be submitted to NHIF with necessary payment to provide health insurance cover to the beneficiaries;

(iv) if the submitted list from award(s) is rejected by the board, the process shall be repeated if directed by the review committee set up in this act or any other judicial authority.

(d) (i) the Fund shall facilitate marketing of health insurance quarterly in each ward to encourage uptake of health insurance by the residents;

(ii) such facilitation shall include but not limited to outreaches, seminars, workshops or any other forum approved by the county executive responsible for health.

21. (a) In execution of Section 20 of this act there is an established appellate body to be known as Review Committee. The review committee shall comprise;

(i) Chief Officer for the county department responsible for county health services or his nominee appointed in writing;

(ii) County Executive member in charge of Health services who shall be the chairperson;

(iii) representative of the county treasury designated in writing by the County Executive Committee member for finance;

(iv) representative of the county department responsible for matters of social services;

(v) county Director of Health services;

(vi) administrator of the fund who shall be the secretary;

(vii) a social worker.
A person aggrieved by a decision of the board may request in writing to the Review Committee for review of such decision.

22. (1) The County Board shall convene an annual forum for all beneficiaries and potential beneficiaries under this Act.

(2) The Forum shall provide a platform for reviewing and evaluating the performance fund.

23. (1) The County Board shall prepare an annual report which shall be submitted to the County Assembly for consideration.

(2) The report shall provide among others for —

(a) performance of the Fund against the set targets;

(b) the number of beneficiaries aggregated in accordance to gender and ward in respect of the execution of Section 3 (iii) of this act;

(c) challenges faced in the implementation of this Act and mitigation measures taken;

(d) Any other matter as may be directed by the County Executive Committee or the county assembly.

PART IV — GENERAL PROVISIONS

24. (1) The Executive Member may, in consultation with the Board, make regulations generally for the better carrying out of the objects of this Act.

25. Transition clause. The committees now in place shall stand automatically disbanded within 30 days of coming into the operation of this act and shall thereafter be reconstituted within 3 months.

SCHEDULE ONE

PROVISIONS AS TO THE CONDUCT OF BUSINESS AND AFFAIRS OF THE COUNTY BOARD

1. A member of the County Board may—

(a) at any time resign from office by notice in writing to the County Executive Committee member responsible for county health services;
(b) be removed from office by the County Executive Committee member responsible for county health services if the person —

(i) has been absent from three consecutive meetings of the Board without the permission of the chairperson;

(ii) is convicted of a criminal offence and sentenced to imprisonment for a term exceeding six months or to a fine exceeding ten thousand shillings;

(iii) is convicted of an offence involving dishonesty or fraud;

(iv) is adjudged bankrupt;

(v) is incapacitated by prolonged physical or mental illness or is deemed otherwise unfit to discharge his duties as a member of the Board by a competent medical panel; or

(vi) fails to comply with the provisions of this Act relating to disclosure.

2. (1) The County Board 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 (2), above, the chairperson may, and upon requisition in writing by at least four members, shall convene a special meeting of the Board 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 otherwise agree, at least fourteen days’ written notice of every meeting of the Board shall be given to every member of the Board.

(4) The quorum for the conduct of the business of the Board shall be half plus one members including the chairperson or the person presiding.

(5) The chairperson shall preside at every meeting of the Board at which he is present but, in his absence, the members present shall elect one of their members 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 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 (5), no proceedings of the Board shall be invalid by reason only of a vacancy among the members thereof.

3. (1) If a member is directly or indirectly interested in an outcome of any decision of the Board or other matter before the Board and is present at a meeting of the Board 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 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 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.

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

(6) Where the Board determines that the conflict is likely to interfere significantly with the member’s proper and effective performance, the member shall resign unless the member has eliminated the conflict to the satisfaction of the Board within thirty days.

(7) The Board shall report to the department of Health services any determination by the Board that a conflict is likely to interfere significantly with performance as above and whether or not the conflict has been eliminated to the satisfaction of the Board.

(8) The annual report of the Board shall disclose details of all conflicts of interest and determinations arising during the period covered by the report.

(9) A disclosure of interest made under this paragraph shall be recorded in the minutes of the meeting at which it is made.

(10) A member of the Board who fails to declare conflict of interest where such is the case commits an offence is guilty of misconduct.

4. The Board shall comply with the code of conduct governing public officers and provisions of Chapter Six of the Kenya constitution 2010.

5. The Board shall cause minutes of all resolutions and proceedings of meetings of the Board to be entered in books kept for that purpose.
REMUNERATION OF THE BOARD

REMNUNERATION BY COUNTY BOARD

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<tr>
<th>Allowance</th>
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<th>Health Centre And Dispensary</th>
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Note.— The payments shall be in respect of four full board meetings in a year and up to a maximum of three (3) sub committee meetings in a quarter.