LEGAL NOTICE NO. 4

THE STATE CORPORATIONS ACT

(Cap. 446)

IN EXERCISE of the powers conferred by section 3 (1) of the State Corporations Act, I, Uhuru Kenyatta, President and Commander-in-Chief of the Kenya Defence Forces, make the following Order—

THE KENYATTA UNIVERSITY TEACHING, REFERRAL AND RESEARCH HOSPITAL ORDER, 2019

1. This Order may be cited as the Kenyatta University Teaching, Referral and Research Hospital Order, 2019.

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

"Act" means the State Corporations Act;

"Board" means the Board of Directors of the Kenyatta University Teaching, Referral and Research Hospital Board constituted in accordance with paragraph 6;

"Cabinet Secretary" means the Cabinet Secretary for the time being responsible for health;

"Chief Executive Officer" means the person appointed in accordance with paragraph 10;

"Board Member" means a member of the Board of Directors of the Kenyatta University Teaching, Referral and Research Hospital;

"Referral Hospital" means the Kenyatta University Teaching, Referral and Research Hospital established under paragraph 3 of this Order.

(1) There is established a state corporation to be known as the Kenyatta University Teaching, Referral and Research Hospital.

(2) The Referral Hospital shall be 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) receiving, investing, borrowing and lending money; and
(d) doing or performing all other things or acts, including entering into for the proper performance of its functions
(3) The hospital shall be a level 6 tertiary hospital within the meaning of section 25(1) as read with the First Schedule of the Health Act, 2017.

4. The aim and objective of the Referral Hospital shall be—

(a) to provide highly specialized services, including—
   (i) general specialization;
   (ii) discipline specialization; and
   (iii) geographical or regional specialization including highly specialized healthcare for an area or region; and

(b) to provide training and research services for issues of national importance.

5. The Referral Hospital shall—

(a) receive patients on referral from other hospitals or institutions within or outside Kenya for specialized health care;

(b) provide facilities for medical education for the Kenyatta University and for research either directly or through other co-operating health institutions;

(c) provide facilities for education and training in nursing and other health and allied institutions;

(d) participate, as a national referral hospital, in national health planning;

(e) collect, analyze and disseminate all data useful in the prevention, diagnosis and treatment of cancer and other chronic diseases;

(f) provide access to available information and technical assistance to all institutions, associations and organizations concerned with the welfare and treatment of persons with chronic diseases, including those controlled and managed by the national government;

(g) advise the Cabinet Secretary on matters relating to the treatment and care of persons with cancer and chronic diseases and to advise on the relative priorities to be given to the implementation of specific measures; and

(h) doing or performing all other necessary functions or activities of a National Teaching, Research and Referral Hospital, including undertaking ventures for the purposes of raising revenues for the purposes of funding its activities wholly or in part.

6. (1) There shall be a Board of Directors of the Referral Hospital which shall consist of—
(a) a non-executive Chairperson appointed by the President;
(b) the Principal Secretary in the Ministry for the time being responsible for finance, or his or her representative, appointed in writing;
(c) the Principal Secretary in the Ministry for the time being responsible for health, or his or her representative, appointed in writing;
(d) the Principal Secretary in the Ministry for the time being responsible for university education, or his representative, appointed in writing;
(e) the Attorney-General or his representative appointed in writing;
(f) the Vice-Chancellor of Kenyatta University;
(g) the Principal of the College of Health Sciences of Kenyatta University;
(h) the Director of Medical Services;
(i) a representative of the Kenyatta University Council, who shall not be a public officer;
(j) the chief executive officer; and
(k) two other members, not being public officers, appointed by the Cabinet Secretary by virtue of their knowledge and experience in matters relating to finance, management, economics, law or any other relevant field.

(2) The Board may co-opt any other person with necessary expertise and on temporary basis as it considers necessary to assist the Board in discharging its duties and responsibilities.

(3) The office of the chairperson or a Board member shall become vacant if the holder—

(a) by a notice, in writing, addressed to the appointing authority, resigns from office;
(b) is removed from office, by the appointing authority, on grounds of incapacity due to mental or physical illness or is otherwise unable to discharge the functions of a member of the Board or continue to serve in the Board;
(c) is absent from three consecutive meetings of the Board without good cause and prior apology;
(d) is adjudged bankrupt or enters into a composition scheme or arrangement with his creditors;
(e) is sentenced by a Court to imprisonment for a term of six months or more; or
(f) is convicted of an offence involving dishonesty or fraud.

7. (1) The Board shall be responsible for the management and administration of the Referral Hospital.
(2) Without prejudice to the generality of subparagraph (1), the Board shall—

(a) receive patients on referral from other hospitals or institutions within or outside Kenya for specialized health care;

(b) provide facilities for medical education for the Kenyatta University and for research either directly or through other co-operating health institutions;

(c) provide facilities for education and training in nursing and other health and allied institutions;

(d) participate, as a national referred hospital, in national health planning;

(e) collect, analyze and disseminate all data useful in the prevention, diagnosis and treatment of cancer and other chronic diseases;

(f) provide access to available information and technical assistance to all institutions, associations and organizations concerned with the welfare and treatment of persons with chronic diseases, including those controlled and managed by the Government;

(g) administer the property and funds of the Referral Hospital in such a manner and for such purposes as will, in the opinion of the Board, promote its best interests;

(h) receive on behalf of the Referral Hospital grants in aid, gifts, donations, fees, subscriptions or other moneys and approve disbursement;

(i) advise the Cabinet Secretary on policy matters relating to the treatment and care of persons with cancer and chronic diseases and to advise on the relative priorities to be given to the implementation of specific measures; and

(j) do or perform all other necessary functions or activities of a National Teaching, Research and Referral Hospital, including undertaking of any ventures for the purposes of raising revenues for the purposes of funding its activities wholly or in part.

8. (1) The Board shall have all the powers necessary to manage and administer the Referral Hospital in a manner that shall enable the realization the objects and purposes for which the Referral Hospital is established.

(2) Without prejudice to the generality of subparagraph (1), the Board shall have the power to—

(a) open a bank account(s) for the funds of the Referral Hospital into which all moneys received by the Referral Hospital shall be paid in the first instance and out of which all payments made by the Referral Hospital shall be made;
(b) enter into any agreement or partnership with any public sector agencies and other parties for the operation of facilities, equipment or services of the Referral Hospital as necessary, in furtherance of the discharge of the functions of the Referral Hospital;

(c) acquire such land or assets for the proper performance of the functions of the Referral Hospital;

(d) invest any of the Referral Hospital’s funds not immediately required for performance of the objects and purposes for which the Referral Hospital is established; and

(e) with the written prior approval of the Cabinet Secretary, carry out any other activity that in the opinion of the Board will promote and facilitate the realization of the objects and purposes for which the Referral Hospital is established.

9. The Board may by resolution, in writing, either generally or for a particular case, delegate to any committee of the Board or Hospital management, the exercise of any of the powers or the performance of any of the functions of the Board under this Order or any other written law.

10. (1) There shall be a Chief Executive Officer of the Referral Hospital who shall be appointed by the Board on such terms and conditions of service as the Cabinet Secretary may in consultation with the Committee, approve.

(2) A person shall qualify for appointment as the Chief Executive Officer if that person—

(a) is a registered medical practitioner who holds a Master’s degree in a health related field;

(b) has had a distinguished career in a senior management position in either the private or public sector for at least ten years;

(c) holds at least ten years’ post qualification professional experience; and

(d) satisfies the requirements of Chapter Six of the Constitution.

(3) A person shall not be qualified for appointment as the Chief Executive Officer under subparagraph (1) if that person—

(a) is adjudged bankrupt or enters into a composition scheme or arrangement with his or her creditors;

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

(c) fails to comply with the requirements of Chapter Six of the Constitution; or

(d) is convicted of a criminal offence and sentenced to imprisonment for a term exceeding six months.

(4) The Chief Executive Officer shall be responsible for the day-to-day operations and administration of the Referral Hospital, under the general direction and supervision of the Board.
(5) The Chief Executive Officer shall be appointed for a term of three years and shall be eligible for reappointment for one further term of three years.

11. (1) The Board shall competitively recruit a person qualified, in terms of the law governing the practice of public secretaries in Kenya, to serve as the Corporation Secretary of the Referral Hospital.

(2) The Corporation Secretary shall be the Secretary to the Board and shall be responsible for arranging the business and meetings of the Board, the keeping of records of the Board's meetings, the keeping of the records of the proceedings of the Board, and perform such other duties as the Board may direct.

12. The Referral Hospital may employ such other officers, staff or agents as it considers necessary for the discharge of its functions and duties under this Order, upon such terms and conditions as the Board may, in consultation with the relevant government institutions, determine.

13. The funds of the Referral Hospital shall consist of—

(a) monies appropriated by Parliament for the purposes of the Referral Hospital;
(b) such monies or assets as may accrue to the Referral Hospital in the course of the exercise of its powers or in the performance of its functions under this Order;
(c) monies from any other source provided, donated, lent or given as a grant to the Referral Hospital; and
(d) any other funds designated for or accruing to the Referral Hospital by operation of the law.

14. The financial year of the Referral Hospital shall be the period of twelve months ending on the thirtieth day of June in each year.

15. The annual estimates of the Referral Hospital shall be prepared in accordance with the Public Finance Management Act, No.18 of 2012.

16. (1) The Board shall cause to be kept all proper audit books and records of accounts of the income, expenditure, assets and liabilities of the Referral Hospital.

(2) The accounts of the Referral Hospital shall be audited and reported upon in accordance with the Public Finance Management Act, 2012 and the Public Audit Act, 2015.

17. No matter or thing done by the Board, chairperson, any Board member, or any officer, employee or agent of the Referral Hospital shall, if the matter or thing is done in good faith and for the purposes of executing any provisions of this Order, render the Board, Chairperson, Board member, or any officer, employee or agent of the Referral Hospital or any person acting under the direction of those persons personally liable for any action, claim or demand arising from the same.
18. The provisions of this Order shall not relieve the Referral Hospital of the liability to pay compensation or damages to any person for any injury to that person or his interests caused by the exercise of any power conferred by this Order or by failure, whether wholly or partially, of any works.

19. The Board may make policies for the carrying into effect the provisions of this Order, and in particular, but without prejudice to the foregoing, make policies—

(a) with respect to the procedure for the appointment of all members of staff or officers of the Referral Hospital;

(b) with respect to the performance parameters and targets for any department, section, officer or member of staff of the Referral Hospital;

(c) with respect to fees and charges to be levied by the Referral Hospital with respect to its services; and

(d) outlining the Service Charter and deliverables of the Referral Hospital.

20. No matter or thing done by the Board, Chairperson, any other member of the Board, or any officer, employee or agent of the Referral Hospital shall, if the matter or thing is done in good faith and for the purposes of executing any provisions of this Order, render the Board, Chairperson, any other member of the Board, or any officer, employee or agent of the Referral Hospital or any person acting under the direction of those persons personally liable for any action, claim or demand arising from the same.

21. The Board shall, on receipt of audited accounts for the preceding year, submit to the Cabinet Secretary an annual report in respect of that financial year, containing—

(a) the accounts of the Referral Hospital and statements referred to under paragraph 15(1);

(b) the Referral Hospital’s performance indicators and any other related information;

(c) a report on the operations of the Referral Hospital during that year; and

(d) such other information as the Cabinet Secretary may request.

Dated the 22nd January, 2019.

UHURU KENYATTA,
President.