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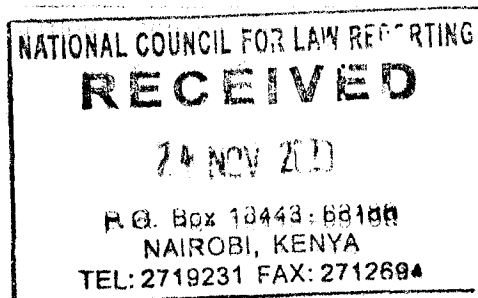
KENYA GAZETTE SUPPLEMENT

NATIONAL ASSEMBLY BILLS, 2020

NAIROBI, 14th October, 2020

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2020**

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THE COMMUNITY HEALTH WORKERS BILL, 2020

A Bill for

AN ACT of Parliament to make provision for the training, registration and licensing of community health workers; to regulate their practice; to provide for the establishment, powers and functions of the Community Health Workers Council of Kenya and for connected

ENACTED by the Parliament of Kenya as follows—

PART I—PRELIMINARY

1. This Act may be cited as the Community Health Workers Act, 2020.

Short title.

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

Interpretation.

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

“certificate” means a certificate of registration issued by the Council to a person entitled to be registered under this Act;

“community health worker” means a person who, having successfully undergone a prescribed course of training in a training institution, is a holder of a certificate issued by that institution and is registered under this Act;

“Council” means the Community Health Workers Council established under section 3;

“register” means the register of community health workers which the Registrar is required to maintain under section 19;

“Registrar” means the registrar of community health workers as provided under section 17.

PART II—ESTABLISHMENT, FUNCTIONS AND POWERS OF THE COMMUNITY HEALTH WORKERS COUNCIL

3. (1) There is established a Council to be known as the Community Health Workers Council.

Establishment of the Council.

(2) The Council 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 and disposing of movable and immovable property;
- (c) borrowing money or making investments;
- (d) entering into contracts; and
- (e) doing or performing all other things or acts necessary 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 Council shall be in Nairobi.

Headquarters of
the Council.

5. The Council shall perform the following functions—

Functions of the
Council.

- (a) assess the qualifications of community health workers;
- (b) ensure the maintenance and improvement of the standards of practice by community health workers;
- (c) establish a professional code and supervise the professional conduct and practice of community health workers;
- (d) take the necessary disciplinary measures in cases of violations of professional conduct and discipline;
- (e) maintain the register and keep a record of all community health workers registered under this Act;
- (f) to collaborate with other bodies such as the Medical Practitioners and Dentists Board, the Central Board of Health, the Clinical Officers Council, the Nursing Council of Kenya and the Pharmacy and Poisons Board, in furtherance of the functions of the Council and those bodies;

- (g) to advise the Cabinet Secretary on community health matters; and
- (h) to consider and deal with any other matter pertaining to community health workers including prescribing badges, insignia or uniforms to be worn by community health workers.

6. (1) The Council shall consist of the following members—

Membership of the Council.

- (a) the Director of Medical Services or a representative designated in writing;
- (b) the Director of Public Health and Sanitation or a representative designated in writing;
- (c) the Director of Education or a representative designated in writing;
- (d) the Attorney-General or a representative designated in writing;
- (e) one registered community health nurse to be nominated by the Nursing Council of Kenya;
- (f) a lecturer in community health from the department dealing with community health nominated by the Kenya Medical Training College;
- (g) two community health workers competitively nominated by the Cabinet Secretary as follows—
 - (i) a community health worker employed by the national government;
 - (ii) a community health worker employed by the county government;
- (h) the Registrar who shall be an *ex officio* member of the Council without a right to vote.

(2) The Chairperson shall be appointed by the Cabinet Secretary from amongst the members under paragraph (g).

(3) A person shall not be qualified for appointment as a member of the Council under sub-section (1) (f) and (g) if the person—

- (a) has been and remains removed from the register or his or her registration, enrolment or licence has been suspended under section 27(1) (b);

(b) has been removed from public office for contravening the Constitution or any other law; or

(c) is an undischarged bankrupt.

(4) All appointments shall be notified in the *Gazette*.

7. The members appointed under section 6 (1) (e), (f) and (g) shall hold office for a term of three years and shall be eligible for reappointment for one further term only.

Term of office.

8. (1) A member of the Council, other than an *ex-officio* member, shall cease to be a member of the Council if such person—

Vacation of office.

(a) is unable to perform the functions of the office by reason of mental or physical infirmity;

(b) is adjudged bankrupt;

(c) is convicted of a criminal offence and sentenced to a term of imprisonment of more than six months;

(d) is absent from three consecutive meetings of the Council without good cause;

(e) resigns in writing by a notice addressed to the Cabinet Secretary;

(f) dies; or

(g) is removed in accordance with the provisions of the Constitution.

(2) The Council shall be properly constituted notwithstanding a vacancy in its membership.

9. The Council shall have all the powers necessary for the proper performance of its functions under this Act and in particular, but without prejudice to the generality of the foregoing, the Council shall have the power to—

Powers of the Council.

(a) manage, control and administer its assets in such a manner and for such purposes as best promotes the purpose for which the Council is established;

(b) open such bank accounts for its funds as may be necessary;

(c) determine the provisions to be made for capital and recurrent expenditure and for the reserves of the Council;

- (d) subject to approval of the Cabinet Secretary for the time being responsible for matters relating to finance, invest any of the Council’s funds not immediately required for the purposes of this Act, as it may determine;
- (e) receive gifts, grants, donations or endowments made to the Council and make disbursements therefrom;
- (f) enter into association with such other bodies or organisations within or outside Kenya as it may consider desirable or appropriate and in furtherance of the purposes for which the Council is established; and
- (g) undertake any activity necessary for the fulfillment of any of its functions.

10. The Council shall conduct its affairs in accordance with the provisions of the First Schedule, but subject thereto, the Council may regulate its own procedure.

Conduct of business and affairs of the Council.

11. The members of the Council shall be paid such remuneration, allowances and disbursements for expenses as may be approved by the Cabinet Secretary in consultation with the Salaries and Remuneration Commission.

Remuneration.

12. The Council may appoint such officers, agents and staff as are necessary for the proper and efficient discharge of the functions of the Council under this Act, upon such terms and conditions of service as the Council may determine in consultation with the Salaries and Remuneration Commission.

Staff.

13. (1) The Council may engage the services of such experts in respect of any of its functions in which the experts have special competence.

Experts.

(2) A person attending a meeting as an expert under this section may participate in any discussion at the meeting but shall not vote.

14. (1) The common seal of the Council shall be kept in the custody of the Registrar or of such other person as the Council may direct, and shall not be used except on the order of the Council.

Common Seal.

(2) The affixing of the common seal of the Council shall be authenticated by the signature of the Chairperson and the Registrar.

(3) The Council shall in the absence of either the Chairperson or the Registrar, in any particular matter, nominate one member of the Council to authenticate the seal of the Council on behalf of either the Chairperson or the Registrar.

(4) The common seal of the Council when affixed to a document and duly authenticated, shall be judicially and officially noticed, and unless the contrary is proved, any necessary order or authorization by the Council under this section shall be presumed to have been duly given.

15. (1) No matter done by a member of the Council or by any officer, member of staff, or agent of the Council shall, if the matter or thing is done *bona fide* for the purpose of executing the functions, powers or duties of the Council under this Act, render the member, officer, employee or agent or any person acting on their directions personally liable in an action, claim or demand whatsoever.

Protection from personal liability.

(2) Any expenses incurred by any person in any suit or prosecution brought against him or her in any court, in respect of any act which is done or purported to be done by him or her under the direction of the Council, shall, if the court holds that such act was done *bona fide*, be paid out of the funds of the Council, unless such expenses are recovered by him or her in such suit or prosecution.

16. The provisions of section 15 shall not relieve the Council of the liability to pay compensation or damages to any person for any injury to him or her, his or her property or any of his or her interests caused by the exercise of any power conferred by this Act or any other written law or by the failure, wholly or partially, of any works.

Liability for damages.

PART III — REGISTRATION AND TRAINING OF COMMUNITY HEALTH WORKERS

17. (1) There shall be a Registrar of the Council recruited and appointed by the Council through a competitive process.

Appointment of the Registrar.

(2) The Registrar shall hold office on such terms and conditions of employment as the Council may determine.

18. A person shall qualify for appointment as the Registrar if that person —

Qualification of the Registrar.

- (a) is a citizen of Kenya;
- (b) has a minimum of a degree from a university recognised in Kenya in any of the courses outlined in the Second Schedule; and
- (c) is a registered community health worker with at least ten years experience.

19. The Registrar shall —

Functions of the Registrar.

- (a) receive applications for registration;
- (b) advise the Council on matters relating to the profession;
- (c) keep and maintain a register of community health workers;
- (d) publish in the *Gazette* a list of names, addresses and qualifications of the registered community health workers not later than 31st March in every year; and
- (e) subject to the directions of the Council, make any necessary alterations or corrections in the register in relation to an entry including the deletion of names of community health workers who have died and entries which have been fraudulently or incorrectly made.

20. (1) The register shall contain the following particulars of community health workers—

Particulars of the Register.

- (a) name and address;
- (b) qualifications of the community health worker; and
- (c) place of business or employment of the community health worker.

(2) A community health worker shall notify the Registrar of any change of particulars.

21. Any person may inspect the register and any documents relating to any entry, and may obtain from the

Inspection of the Register.

Registrar, a copy of, or an extract from the register on payment of the prescribed fee.

22. (1) A person shall be qualified for registration, if he or she —

Registration and effect of registration.

- (a) has successfully undergone a prescribed course of training at an approved training institution;
- (b) has applied for registration in the prescribed form;
- (c) has paid the prescribed fees for registration;
- (d) has engaged in training under the supervision of a registered community health worker for such period, being not less than one year or such period as the Council may prescribe; and
- (e) is a fit and proper person to be registered.

(2) Any person who is aggrieved by the decision of the Council not to register him or her may appeal to the High Court within sixty days of such refusal and the High Court may confirm, annul or vary the Council's decision.

(3) The Registrar shall, with the approval of the Council, issue to every person registered under this Act a certificate of registration in the prescribed form.

23. The prescribed courses for a person to qualify to be registered as a community health worker shall be as set out in the Second Schedule.

Prescribed courses for registration.

24. A person whose name is deleted from the register for any reason shall within thirty days of publication of the deletion in the *Gazette*, surrender his or her certificate of registration to the Council for cancellation.

Surrender of certificates.

25. The Council shall prescribe such title or titles as may be used to denote that a person is registered under this Act.

Use of titles.

PART IV — DISCIPLINE

26. (1) There is established the Community Health Workers Disciplinary Committee.

Establishment of a Disciplinary Committee.

(2) The Committee shall consist of—

- (a) the Chairperson of the Council;

- (b) one representative of the Cabinet Secretary who shall not be a member of the Council;
- (c) an advocate of the High Court with at least ten years' experience appointed by the Council;
- (d) one community health worker nominated by the Public Service Commission; and
- (e) one community health worker nominated by the Council of County Governors.

(3) The Registrar of the Council shall be the Secretary to the Disciplinary Committee but shall have no voting power.

(4) The quorum of the Committee shall be three members.

(5) The Disciplinary Committee shall receive and investigate complaints against Community health workers in accordance with the rules and regulations under this Act.

(6) Subject to this Act, the Disciplinary Committee shall regulate its own procedures.

27. The Disciplinary Committee may make the following orders against a community health worker —

Disciplinary powers of the Committee.

- (a) removal from the register;
- (b) suspension of registration; or
- (c) imposition of a fine.

28. (1) Upon an inquiry held by the Committee, the person whose conduct is being inquired into shall be afforded an opportunity of being heard either in person or through an advocate.

Proceedings of the Disciplinary Committee.

(2) For the purposes of proceedings at any inquiry held by the Disciplinary Committee, the Committee may administer an oath, and may subject to any regulation made under this Act, enforce attendance of persons as witnesses and the production of books and documents.

(3) Any person whose name has been removed from the register shall forthwith surrender to the Council his or her certificate of registration.

(4) A community health worker who contravenes subsection (3) commits an offence and upon conviction, shall be liable to a fine not exceeding twenty thousand shillings.

(5) A community health worker who is aggrieved by the decision of the Council in the exercise of its powers under this section may, within sixty days from the date of the decision of the Council, appeal to the High Court.

PART V—FINANCIAL PROVISIONS

29. The Funds of the Council shall consist of—

Funds of the Council.

- (a) such monies as may be appropriated by the National Assembly for the purposes of the Council;
- (b) such monies as may be payable to the Council pursuant to this Act or any other written law;
- (c) gifts, grants, donations or endowments as may be given to the Council;
- (d) any funds provided by bilateral or multilateral donors, for the purpose of the Council;
- (e) fees for services rendered by the Council; and
- (f) monies from any other lawful source provided for the Council.

30. The financial year of the Council shall be the period of twelve months ending on the thirtieth of June in each year.

Financial year.

31. At least three months before the commencement of each financial year, the Council shall cause to be prepared estimates of revenue and expenditure of the Council for that year.

Annual estimates.

32. (1) The Council shall cause to be kept proper books and records of accounts of the income, expenditure, assets and liabilities of the Council.

Accounts and Audit.

(2) Within the period of three months after the end of each financial year, the Council shall submit to the Auditor-General, the accounts of the Council in respect of that year together with—

- (a) a statement of income and expenditure during the year; and
- (b) a balance sheet of the Council on the last day of that year.

(3) The accounts of the Council shall be audited and reported upon in accordance with the provisions of the Public Audit Act.

No. 34 of 2015.

33. The Council shall before the end of June in each year, cause a report on the work carried out by the Council during that financial 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.

Annual report.

PART VI—PROVISIONS ON DELEGATED LEGISLATION

34. (1) The Cabinet Secretary may in consultation with the Council, make regulations for the better carrying into effect the functions of the Act.

Regulations.

(2) Without prejudice to the generality of subsection (1), the regulations made under this section may provide for—

- (a) the attendance of witnesses and the production of books and documents at an inquiry held by the Disciplinary Committee;
- (b) forms to be used in connection with this Act;
- (c) fees to be charged under this Act; and
- (d) the standards and conditions of professional practice of a person registered or licensed under this Act.

(3) For the purpose of Article 94(6) of the Constitution—

- (a) the purpose and objective of the delegation under this section is to enable the Cabinet Secretary to make rules to provide for the better carrying into effect the provisions of this Act;
- (b) the authority of the Cabinet Secretary to make regulations under this Act will be limited to

bringing into effect the provisions of this Act and fulfilment of the objectives specified under this section;

- (c) the principles and standards applicable to the rules made under this section are those set out in the Interpretation and General Provisions Act and the Statutory Instruments Act, 2013.

Cap. 2.

No. 23 of 2013.

**FIRST SCHEDULE (s.
10)**

**CONDUCT OF BUSINESS AND AFFAIRS OF
THE COUNCIL**

1. (1) The Council shall meet not less than four times in every financial year and not more than two months shall lapse between the date of one meeting and the date of the next meeting. Meetings.

(2) A meeting of the Council shall be held on such date and at such time as the Chairperson shall appoint.

(3) Unless the majority of the membership of the Council otherwise agree, at least fourteen days' notice of every meeting shall be given to every member.

(4) The Chairperson shall on the written application of at least one-third of the members, convene a special meeting of the Council.

(5) The quorum for the conduct of the business of the Council shall be four members at least two of whom shall be members appointed under section 6 (f) and (g).

(6) The Chairperson shall, when present, preside at every meeting of the Council but the members present shall elect one member to preside whenever the Chairperson is absent, and the person so elected shall have all the powers of the Chairperson with respect to that meeting and the business transacted thereat.

(7) Unless an unanimous decision is reached, a decision on any matter before the Council shall be by a majority of the votes of the members present and voting, and in case of an equality of votes, the Chairperson or the person presiding shall have a casting vote.

(8) Subject to subparagraph (5), no proceedings of the Council shall be invalid by reason only of a vacancy among the members thereof.

2. (1) A member who has an interest in any contract, or other matter present at a meeting shall at the meeting and as soon as reasonably practicable after the commencement, disclose the fact thereof and shall not take part in the consideration or discussion of, or vote on, any questions

Disclosure of
interest by
Council
members.

with respect to the contract or other matter, or be counted in the quorum of the meeting during consideration of the matter.

(2) A disclosure of interest made under subparagraph (1) shall be recorded in the minutes of the meeting at which it is made.

(3) A member of the Council who contravenes subparagraph (1) commits an offence and is liable on conviction to imprisonment for a term not exceeding six months, or to a fine not exceeding one hundred thousand shillings, or both.

3. Any contract or instrument which, if entered into or executed by a person not being a body corporate, would not require to be under seal, may be entered into or executed on behalf of the Council by any person generally or specially authorized by the Council.

Execution of
instruments.

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

Minutes.

SECOND SCHEDULE (s. 23)

PRESCRIBED COURSES

A person shall be eligible for registration as a Community Health Worker if he or she has undertaken any of the following prescribed courses —

- (a) Certificate in Community Health, Psychology, Counselling, Social Work, Community HIV Counselling and Testing, Immunization, Community Development, Health Education or its equivalent from a recognised institution;
- (b) Diploma in Community Health and Development, Community Outreach, Psychology, Nutrition, Environmental Health, Counselling, Social Work, Health Promotion and Education or its equivalent from a recognised institution; or
- (c) Bachelors degree in Community Health, Public Health, Environmental Health, Epidemiology, Sociology, Psychology, Anthropology, Counselling, Social Work, Community Development, Nutrition, Health Systems Management, Health Promotion and Education, Population and Health or its equivalent from a recognised university.

MEMORANDUM OF OBJECTS AND REASONS

The principal object of this Bill is to provide a framework for the regulation of community health workers. The Health Act, 2017 in the First Schedule recognises Community Health Services at Level 1 in which the person in charge is the community health extension worker.

The Community Health Workers is important as this is the health personell who deals directly with the community. The Community Health Worker knows the homesteads in the area he or she lives in and is familiar with the language of the people. By going door to door, they are able to know the people in need of various health care services. They thus help in preventive health care.

However, despite their important role, most of these workers are volunteers and if lucky are only paid allowances. It is therefore important to develop a framework for their recognition and regulation so that they are entrenched in the government like other professionals.

PART I (Clauses 1-2) of the Bill provides for preliminary provisions of the Bill including the short title and the interpretation clause.

PART II (Clauses 3-16) of the Bill deals with the establishment, functions and powers of the Council.

PART III (Clauses 17-25) of the Bill deals with the registration and training of community health workers.

PART IV (Clauses 26-28) of the Bill deals with the discipline of community health workers.

PART V (Clauses 29-33) deals with financial provisions. The sources of funds for the Council are outlined in clause 29. The Council is required to comply with prudent financial management systems including the provisions of the Public Audit Act, No. 34 of 2015.

PART VI (Clauses 34) of the Bill contains provisions on delegated legislation.

Statement on the delegation of legislative powers and limitation of fundamental rights and freedoms

The Bill delegates legislative powers to the Cabinet Secretary. It does not limit fundamental rights and freedoms.

Statement that the Bill concerns county governments

The Bill does not affect the functions of the county governments and is therefore not a Bill concerning counties for purposes of the Standing Orders.

Statement that the Bill is a money Bill within the meaning of Article 114 of the Constitution

The enactment of this Bill will occasion additional expenditure of public funds to be provided for through the annual estimates.

Dated the 8th October, 2020.

MARTIN PETERS OWINO,
Member of Parliament.