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No. 4 of 2019
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THE MANDERA COUNTY HEALTH SERVICES ACT, 2019

AN ACT of the County Assembly of Mandera to provide for management of Health services and to give effect to section 2 of Part 2 of the Fourth Schedule to the Constitution and for connected purposes

ENACTED by the County Assembly of Mandera as follows —

PART I — PRELIMINARY

Short title.

1. This Act may be cited as the Mandera County Health Services Act, 2019.

Interpretation.

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

“board” means a hospital board established under section 8;

“Committee” means the committee of a health Centre or dispensary as established under section 9;

“County team” means the County Health Management Team established under section 11;

“County Executive Committee Member” (CECM) means the County Executive Committee Member responsible for Health Services;

“Ministry: The County Ministry of Health Services

“Sub County Health Management Team” means the Sub County Health Management Team established under section 12;

“Salaries and Remuneration Commission” means the Salaries and Remuneration Commission established under Article 230 (I) of the Constitution;

“County Public Service Board” means a county Public Service Board as established under section 57 of the County Government Act no 17 of 2012;

Purpose.

3. The purpose of this Act is to give effect to the provisions of section 2 of Part 2 of the Fourth Schedule to the Constitution, as relates to health service in Mandera County and to provide a legal framework for promoting access to health services and care:
Principles of health service delivery.

4. The following principles shall guide the implementation of this Act—

(a) management of health services in the County shall adopt the National standards and international health best practices;

(b) health services shall be available, accessible, affordable, safe, demand driven and of good quality; and

(c) promotion of the highest attainable standards of health.

PART II—ADMINISTRATION AND MANAGEMENT OF HEALTH SERVICES

Functions of the Department.

5. (1) The Department responsible for county health services shall be responsible for—

(a) implementation of the national health policy;

(b) implementation of county health laws, plans and policies;

(c) general oversight over the management of county public health facilities, hospitals and pharmacies;

(d) provision of preventive, promotive, curative and rehabilitative health services;

(e) day to day management of human resources in the Department;

(f) carrying out any other function as may be assigned by the Executive Committee Member.

(g) enhancing the prevention of non-communicable diseases, violence and injuries related deaths;

(h) develop in consultation with the Hospital Boards or Management Committees, interventions that may be necessary to guarantee public health services to vulnerable or disadvantaged persons in the County;

(i) provision of emergency referral and treatment services including ambulance services;

(j) promoting and carrying out research or investigations in connection with the prevention or treatment of human diseases and dissemination of research findings;
(k) overseeing the procurement, management of health supplies and infrastructural development by the relevant county organs;

(l) preparing and publishing reports and statistical or other information relating to health matters in the county

(m) co-ordination of intergovernmental matters in the health sector

(n) co-ordinate activities and programmes by health stakeholders in the county.

(o) facilitate capacity building and professional development for health service personnel;

(p) promote realization of health rights;

2. To collect and periodically publish—

(a) any information regarding infectious and other diseases in the County,

(b) Information on epidemic diseases in neighboring counties or countries and

(c) any other health related matter in the county.

County Directors of Health

6. (1) There shall be County Directors for Health. The department shall be handled by a CEC member answerable to the Governor and County assembly

(2) The County directors for Medical service and public Health shall be the technical advisors on health matters.

(3) The County Director of Medical Services shall—

(a) hold a degree in medicine and registered with Kenya medical practitioners and dentist board.

(b) have at least 5 years' experience in Public Sector

(4) The County Director for Public Health shall—

(a) be holder of a degree in public health and registered with Public Health Officer and Technician Council;

(b) at least five years' experience in the public sector.

Classification of county health facilities.

7. (1) The health facilities in the County shall be classified as follows—
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(a) County Referral Hospital, which shall be a level five hospital and shall be headed by a Medical Superintendent;

(b) sub county hospitals, which shall be level four hospitals and shall be headed by a Medical Officer;

(c) health centres, shall be a level three hospital;

(d) dispensaries, shall be a level two; and

(e) community units, shall be level one.

(2) A County Referral Hospital shall be headed by a registered medical practitioner with a Master’s degree in a health-related field and shall have the following functions—

(a) provision of specialized services;

(b) act as training facility for cadres of health workers who function at the primary care level;

(c) to serve as an internship Centre for all staff up to the level of medical officer; and

(d) to serve as a research Centre on issues affecting the County healthcare.

(e) Other routine health care services

(3) A Sub County hospital shall be headed by a registered medical practitioner with a degree in medicine and surgery and shall have the following functions—

(a) clinical and supportive supervision of lower level facilities;

(b) referral level out-patient care;

(c) in-patient services;

(d) Provide surgical or obstetric care and oral health services;

(e) surgery on in-patient basis;

(f) client health education;

(g) provision of specialized laboratory tests;

(h) radiology service;

(i) proper case management of referral cases

(j) proper counter referral;

(k) provision of logistical support to the lower facilities in the catchment area;
(l) co-ordination of information flow from facilities in the catchment area.

(4) A Health Centre shall be headed by medical officer, Clinical Officer or Registered Nurse with at least two years’ managerial experience and shall have the following functions—

(a) to provide out-patient care;
(b) to provide limited emergency care;
(c) maternity for normal deliveries;
(d) laboratory, oral health and referral services;
(e) provision of preventive and promotive services;
(f) in-patient services

(5) A dispensary shall be headed by a clinical officer or nurse and shall have the following functions—

(a) provision of preventive and promotive services;
(b) promotion of maternal and child health services;
(c) Conduct outreach services.

(6) A community unit shall be headed by a community health extension officer or Community Health Extension worker and shall have the following functions—

(a) facilitating individuals, households and communities to carry out appropriate healthy behavior;
(b) recognizing signs and symptoms of conditions requiring referral;
(c) facilitating community diagnosis, management and referral.

Hospital Boards

8. (1) Every County and Sub County hospital shall be governed by a Hospital Board.

(2) The members of a Board shall be appointed by the Executive Committee Member responsible for Health, through a competitive process in consultation with the County Public Service Board.

(3) A Hospital Board shall consist of—

(a) the chairperson;
(b) the medical superintendent or medical officer, as the case may be who shall be the secretary to the board;
(c) a representative of faith-based Organizations in the County;
(d) a representative of persons with disabilities;
(e) a representative of women in the County; and
(f) a representative of youth in the County.

(4) The Chairperson shall—
(a) hold a bachelor’s degree
(b) have at least five years’ experience in management; and
(c) comply with the provisions of Chapter Six of the Constitution.

(5) A person shall qualify for appointment under sub-section (3) (c),
(d), (e) (f) (g) and (h), if the person—
(a) holds a diploma from a recognized institution;
(b) has at least five years’ experience in community health,
community development, Law, administration, management,
accountancy or finance;
(c) is a resident of the County or sub county as the case may be.

(6) The medical superintendent or medical officer, as the case may be
shall be the secretary to the Board.

Tenure of office for members

9. A member of the board or committee under clause 8 and 9 shall
hold office for a period of 3 years and shall be eligible for appointment for
a further one term.

Terms and conditions of service

10. The Members shall hold office on a part time basis with
maximum of twelve sittings annually and there shall be at least one
meeting in every two months and may be entitled to allowances as
determined by the County Public Service Board in consultation with the
Salaries and Remuneration Commission.

Conduct of Business

11. (1) The conduct of business of the management boards and
committees shall be in accordance with the procedure prescribed by the
County Executive Committee Member.

(2) The Board and Committees of the health facilities may in
consultation with the County Executive Committee member and County
Public Service Board, recruit casual staff for purposes of providing
essential services.
Committee for Health Centres and dispensaries.

12. (1) Every Health Centre and dispensary shall have a committee.

(2) The members of a committee shall be elected by the residents at a public forum convened by a ward administrator and approved by the Executive Committee Member.

(3) The committee members shall comprise of—

(a) a chair
(b) facility in charge as secretary
(c) one Person each chosen from women, youth and Persons with Disabilities

(4) The chair Shall be—

(a) holder of diploma or Post-Secondary Education
(b) have a 3 years’ experience
(c) a resident of the locality

(5) Others members shall—

(a) be holder of certificate in post primary Education
(b) have 2 years’ experience in community engagement
(c) be resident of the locality

Functions of the Boards and Committees.

13. The functions of a Board or Committee shall be—

(a) to provide oversight over the administration of the hospital, health Centre or dispensary;
(b) to provide oversight over development of the hospital, health Centre or dispensary;
(c) approving the budget estimates of the facility before submission to the County Executive Committee member;
(d) resource mobilization;
(e) to receive complaints from the community and act on complaint appropriately
(f) carry out such other functions as may be assigned by the County Executive Committee Member.
PART III—HEALTH SERVICES DELIVERY

County Health Management Team.

14. (1) There is established a County Health Management Team.

(2) The Team shall be composed of—

(a) the County Director Medical Services, who shall be the chairperson;

(b) other directors in the county health department;

(c) the heads of units/department or any other officers so designated by the County Executive Committee Member.

(3) The County Team shall meet quarterly.

(4) The County Team shall receive reports from the Sub-County teams.

(5) The report of the County team shall be submitted to the Department and the Department shall submit quarterly reports to the County Executive Committee.

(6) The functions of the County Team shall—

(a) implement all valid health facility laws;

(b) record and act on complaints from patients, clients and professional bodies;

(c) conduct health inspection to the public or private sector hospitals, clinics or pharmacy;

(d) keep record of all private/faith based, Health facilities;

(e) providing supervision and support to the management of the county health facilities in the County within the County;

(f) carrying out needs and capacity assessment for county health facilities;

(g) facilitating capacity building of health personnel in the county;

(h) facilitating county health facilities to comply with the established standards in accordance with section 4(a);

(i) carrying out any other function as may be assigned by the Executive Committee Member.

(7) The County Executive Committee member shall submit the reports to the County Assembly within 21 days receipt from the Health Management Committee.
Sub-County Health Management team.

15. (1) There is established in each sub county a Sub County Health Management Team.

(2) The Sub County Health Management Team shall consist of—

(a) the medical superintendent; who shall be the chairperson;
(b) the sub county administrative officer, who shall be the secretary;
(c) the heads of units in the Health department at the Sub County;

(3) Function of sub county health management team—

(a) providing supervision and support to the management of the health facilities in the sub county;
(b) exercising disciplinary measures over health personnel working in the sub county;
(c) in consultation with the county health management team, facilitating capacity building of health personnel at the sub county;
(d) facilitating county health facilities in the sub county to comply with the established standards in accordance with section 4(a) (b) (c).

Establishment of specialized units.

16. The County shall, within two years of enactment of this Act establish the following specialized units in Referral hospitals—

(a) kidney dialysis Centre;
(b) mental health unit;
(c) cancer screening and treatment center/ palliative care;
(d) Intensive Care Unit;
(e) high dependency unit;
(f) Radiology and Diagnostic Unit;
(g) other specialized services

County Health Information System.

17. (1) Within five years of commencement of this Act, the County shall establish a health information system for all health facilities.
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**County Health Assurance Unit.**

18. (1) The County shall establish a county health quality assurance unit that ensures quality standards for public and private sector

(2) Each Health facility must have certified quality system according to national and international with 5 years upon commencement of this act—

(a) be the repository for county health information, data and statistics;  
(b) collate the prescribed data and information from private health service providers; and  
(c) ensure that data and statistics health by the Department are accessible to any member of the public or to any government agency.

(3) The county health assurance unit shall be responsible for monitoring compliance of health care standards in both public and private health facilities.

(4) The county health assurance unit shall inspect all health facilities in the county and submit reports on the same to the Executive Committee Member.

**Complaints and feedback mechanism.**

19. (1) Any person has a right to file a complaint about the manner in which he or she was treated at a health facility to the relevant department at the Ministry.

(2) The Executive Committee Member shall prescribe the procedure for instituting complaints against health care facilities.

(3) The procedure for laying complaints must be displayed at all health facilities and communicated to users in a manner that is accessible to the user.

**Disease Control.**

20. (1) The Executive Committee Member shall within six months after the commencement of this Act prepare and submit to the Governor a health statement on—

(a) magnitude of the disease burden;  
(b) leading health risk factors in the county;  
(c) mitigation measures that have been employed or should be employed to reduce the disease burden or risk factors; and
(d) any proposed policy changes on the same to the CEM and submit the same report to the county assembly committee on health for tallying.

(2) After the first health statement, the Executive Committee Member shall prepare and submit a health statement annually.

(3) The Ministry may collaborate and partner with other counties and national government in order to control diseases, health conditions or health risk factors.

**Isolation of persons exposed to infection**

21. (1) The Ministry may, in order to adequately guard against the spread of a disease until it is ascertained that a person is free from infection or may be discharged without causing danger to the public health by order issued by a magistrate, remove a person to a place of isolation, if a qualified medical officer for health, by a certificate signed by that officer is of the opinion that the person has recently been exposed to any notifiable infectious disease and may be in the incubating stage of the disease.

(2) A person removed to a place of isolation under subsection (1) shall not be kept in isolation for more than seven days unless it is proved that the disease remains infectious.

**Public Private Partnerships.**

22. (1) The County may enter into a public private partnership agreement relating to —

(a) development of health facilities;

(b) disease control; or

(c) development of health care management systems.

(2) A public private partnership shall —

(a) compliment the services of the health facilities;

(b) operate within the law and the respective professional regulations;

(c) registered with the relevant authority.

(3) In case of emergency the County can buy drugs from private entities.

**Blood transfusion.**

23. (1) The County shall establish blood transfusion units in the county and sub county health facilities.
(2) The department of health shall establish mechanisms and encourage voluntary blood donation.

**Mental Health.**

24. The County shall put in place mechanisms to protect the rights of mentally ill persons.

**Sanitary services.**

25. (1) The county shall establish and maintain sanitary services—
   
   (a) for the removal of destruction or otherwise dispose of all kinds of refuse and effluent and, where established, to compel the use of the service by persons to whom the service is available;
   
   (b) ensure that public lavatories, closets and urinals are in accessible areas to the public, maintain them in good condition and must be user friendly to cater for persons with disabilities;
   
   (2) The County shall build such number of mortuaries as may be necessary.
   
   (3) The County may designate and maintain a public cemetery.
   
   (4) The County shall establish mechanisms for proper waste disposal.

**Emergency medical care.**

26. (1) Every person has the right to emergency medical treatment both Public and Private.

   (2) A person shall not be denied emergency treatment by the health service provider of first contact both Public and Private.

   (3) For the purpose of this Act, emergency medical treatment means—
   
   (a) pre-hospital care;
   
   (b) stabilization care or procedures;
   
   (c) referral to a competent health facility where the health provider of first call does not have the necessary facilities.

   (4) A person in charge of a health care facility or a medical officer who fails to provide emergency medical treatment commits an offence and shall be liable on conviction to a fine not exceeding one million shillings or to imprisonment for a term not exceeding twelve months or to both.

**Reproductive health**

27. (1) Every person has a right to reproductive health care which includes—
(a) the right of men and women of reproductive age to be informed about, and to have access to reproductive health services including to safe, effective, affordable and acceptable family planning services, except elective abortions;

(b) access to treatment by a trained health professional for conditions occurring during pregnancy including abnormal pregnancy conditions, such as ectopic, abdominal and molar pregnancy, or any medical condition exacerbated by the pregnancy to such an extent that the life or health of the mother is threatened.

(2) For the purposes of subsection (1) (b), the term “a trained health professional” shall refer to a health professional with formal medical training at the proficiency level of a medical officer, a nurse, midwife, or a clinical officer.

(3) Any procedure carried out under subsection (1) (a) or (1) (b) shall be performed in a legally recognized health facility with an enabling environment consisting of the minimum human resources, infrastructure, commodities and supplies for the facility as defined in the norms and standards developed under this Act.

PART IV—HEALTH RIGHTS AND DUTIES

Rights of health care providers.

28. (1) A health care provider has the right to a safe working environment, which includes proper work equipment and material, minimal risk of disease transmission and injury.

(2) A health care provider has the right to work without discrimination.

(3) The right to lodge complaints and right to be heard.

Rights of patients.

29. Every patient has a right to—

(a) the highest attainable standard of health including access to promotive, preventive, curative and rehabilitative health services;

(b) to be treated by a qualified professional and with a professional standard of care;

(c) to be treated with dignity, respect and have their privacy respected in accordance with the Constitution.

Duties of patients.

30. A patient shall be under a duty to—
(a) adhere to the rules of a health establishment when receiving treatment or using the health services provided by the establishment;

(b) adhere to the medical or health advice and treatment provided by the health care provider;

(c) to supply the health care provider with all necessary information accurately;

(d) to treat health care providers with dignity and respect.

(e) to sign any necessary documentation as advised by the health care provider, in a timely manner.

Consent.

31. (1) A health care provider shall not perform or give any health service without the consent of the patient unless as provided in subsection 28(4) below.

(2) Where the patient is unable to give consent, the next of kin or a person authorized by the patient shall do so on their behalf.

(3) A health care provider shall take all necessary steps to obtain consent under this section.

(4) In case of emergency requiring swift intervention in a patient who is unconscious with no relative, the surgeon or attending Doctor can sign consent to save life.

(5) In case of a minor or mentally ill persons requiring emergency medical services and consent denied by guardian, the rights to treatment of the minor or mentally ill person supersedes the guardian’s denial.

(6) In case of an obstetric emergency requiring surgical intervention and the next of kin decline consent, the attending Doctor can sign the consent to save the life of the mother and foetus.

(7) Any person who obstructs a patient from giving consent in an emergency intervention is liable to a fine not exceeding 500,000 Kenya shillings or imprisonment for 6 months or both.

PART V—FINANCIAL PROVISIONS

Financial provision.

32. (1) The County Government shall make sufficient allocation of funds and resources for health services.

(2) The implementation of this Act shall be funded through—
(a) monies as may be appropriated by the County Assembly for that purpose;
(b) grants or transfers as may be received from the national government;
(c) grants or donations from any lawful sources;
(d) such other monies received from national government as conditional or non-conditional grants, for services rendered to patients in accordance with the established systems;
(e) monies received as user charges, fees payable or insurance payments collectable with the approval of County Treasury and County Assembly through budgetary appropriation;
(f) any income generated by a health facility from any approved project initiated by that health facility.

(3) The funds for (a) and (b) shall be deposited into county deposits accounts and allocated to the respective health facility

(4) Ministry of health services with the approval of County Treasury and County Assembly through annual finance Act; may charge such user fees or charges as may be reasonable for the service rendered.

(5) A health facility shall open a bank account into which the monies received under subsection (3) shall be deposited or paid into.

(6) The funds shall be managed in accordance with the Public Finance Management Act.

PART VI—MISCELLANEOUS

Health laws and policies

33. The Executive Committee Member shall, within eighteen months upon the commencement of this Act, prepare and submit to the County Assembly for enactment or adoption the laws and policies

(a) Environmental Health.
(b) Occupational Safety.
(c) Public Health.
(d) Treatment and Rehabilitation against drug
(e) Mental Health.
(f) Sanitation and Water Quality.
(g) Food Safety and Control.
(h) Ambulance Services

Regulations.

34. The Executive Committee Member may make regulations for the better carrying into effect of the provisions of this Act.