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THE WEST POKOT COUNTY HEALTH SERVICES BILL, 2017

A Bill for

AN ACT of County Assembly of West Pokot to provide for implementation of section 2 of part 2 of the Fourth Schedule to the Constitution on county health services and for connected purposes

ENACTED by the County Assembly of West Pokot, as follows—

PART 1—PRELIMINARY

Short title.

1. This Act may be cited as the West Pokot County Health Services Act, 2017.

Interpretation.

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

“Board” means the Board of hospital established under Section 9;

“Committee” means the committee of health center or dispensary established under section 11;

“Department” means the department responsible for health as assigned by the County Executive Committee;

“Chief Officer” means the Chief Officer responsible for county health;

“County Executive Member” means the member of County Executive Committee responsible for county health;

“community health unit” means an area of jurisdiction managed by a county health officer or community health extension worker, established to provide health services at community level and includes mobile clinics;

“County health facility” means a county public health facility;

“County health management team” means the county health management team established under section 30;

“County Health Sector Stakeholders Forum” means the County Health Sector Stakeholders Forum established under section 40;

“health promotion” means the process of enabling people to increase control over, and to improve their health and includes health education, disease prevention, rehabilitation services and health enhancement through employees in the improvement of health-related physical, mental and social well-being;
...“medical supplies” refers to and includes products or materials used in the delivery of health care services namely pharmaceuticals, nutraceuticals, vaccines and therapeutic antisera, medical equipment and devices, medical appliances and materials, health technologies, laboratory supplies and reagents, dental materials, hospital consumables, and any other material or equipment as may be necessary for the delivery of health care services in the county;

“Quality and Compliance Assurance Unit” means the Quality and Compliance Assurance Unit established under section 34;

“Sub-County Health Management Team” means the Sub-County Health Management Team established under section 31;

Purpose of the Act.

3. The Purpose of the Act is to provide for the implementation of section 2 of Part 2 of the Fourth Schedule to the Constitution and to provide for a legal framework for –

(a) promoting access to health services;

(b) facilitating realization of right to health care as provided under Article 43 of the Constitution; and

(c) facilitating realization of consumer health rights in accordance with Article 46 of the Constitution.

Principles of health service delivery.

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

(a) management of health services shall adopt a health systems approach as prescribed by the World Health Organization;

(b) Health Services shall be available, accessible, acceptable, affordable and of highest attainable quality and standard;

(c) health rights of individuals shall be upheld, observed, promoted and protected; and

(d) provision of health services shall focus on health outcomes.

PART II—HEALTH SERVICES MANAGEMENT

Functions of the Department.

5. The Department shall—

(a) in collaboration with other stakeholders, coordinate the provision of preventive, promotive, curative and rehabilitative health services;
(b) in collaboration with other stakeholders, develop health policies, laws and programs and coordinate their implementation;

(c) coordinate implementation of national health policies and laws at the county level;

(d) coordinate public and private sector health programs and systems at the county level;

(e) ensure compliance with standards for health facilities and health services;

(f) manage day to day human resources under the Department;

(g) facilitate capacity building, training and professional development for health service personnel;

(h) oversee the management of county health facilities and facilitating their development;

(i) provide liaison with national government and other stakeholders in implementation of health policies, laws and programs;

(j) develop policies and laws for control of health risk factors and initiating relevant mitigating measures and programs in collaboration with other agencies;

(k) promote realization of health rights in the county;

(l) ensure that the purpose of this Act and the principles of health services provided under section 4 are realized;

(m) carry out research and dissemination of research findings;

(n) act as the repository of data, statistics and information related to health in the county;

(o) monitor and evaluate the implementation of this Act;

(p) mobilize resources for the implementation of this act; and

(q) carry out any other function for the realization of the purpose of the Act and as may from time to time be assigned by the County Executive Committee.

Staff.

6. (1) The County Public Service Board shall, in consultation with the County Executive Committee Member, establish offices and appoint such staff under the department, including county health facilities, in accordance with the County Government Act for implementation of this Act.
(2) Notwithstanding subsection (1), a county health facility may, in consultation with County Executive Member, recruit such staffs as necessary on short term or part time basis for the purposes of providing essential services.

(3) The Department shall provide—
(a) continuous professional training and development; and
(b) monitoring and professional supervision for health professional and workers.

Classification of County Health Facilities

7. (1) County health facilities shall be classified as follows—
(a) county hospital;
(b) sub-county hospital;
(c) health center;
(d) dispensary; and
(e) community health unit.

(2) Subject to the national standards, the County Executive Member may, with the approval by the County Executive Committee designate a county hospital to be a County referral hospital.

Establishment of health facilities

8. (1) There shall be—
(a) at least one county hospital;
(b) in each sub-county, at least one sub-county hospital;
(c) in each ward, at least one health center; and
(d) such number of dispensaries and community health units in each ward as may be prescribed.

(2) The County Executive Member shall, in consultation with the County Executive Committee prescribe the category applicable to each county health facility described under subsection (1).

Board of Hospital

9. (1) A county and sub-county hospital shall be administered by a board appointed by the County Executive Member with the approval of the County Assembly, which shall consist of—
(a) a non-executive chairperson;
(b) the medical superintendent of the hospital who shall be an ex-officio member and the secretary;

(c) one officer of the department designated by the County Executive Member from among members of county health management team or sub-county health management team;

(d) one person representing faith based organizations appointed from amongst persons nominated by faith based organizations in the county or sub-county;

(e) one person representing non-governmental organizations providing health services in the county or sub-county appointed from amongst persons nominated by non-governmental organizations;

(f) one person representing persons with disabilities appointed from amongst persons nominated by organizations of persons with disabilities organizations in the county or sub-county;

(g) one medical practitioner who is in private practice in the county or sub-county;

(h) one person who has the knowledge or experience in finance and accounting;

(i) one person appointed from amongst persons nominated by women organizations involved in provision of health services in the county or sub-county; and

(j) one youth appointed from amongst persons nominated by youth organizations in the county or sub-county.

(2) The nursing officer in charge of the hospital and the hospital administrative officer shall be ex-officio members of the board.

(3) A person shall not be eligible for appointment as a chairperson of a hospital board unless the person—

(a) possess a degree from a recognized university; and

(b) has at least five years’ experience in management, leadership or administration.

(4) A person shall not be eligible for appointment as a member under subsection (1)(d),(e),(f),(g),(h) and (i) unless the person—

(a) possess at least a diploma from a recognized institution;

(b) has at least five years’ experience in community health development administration or management or accountancy and
finance in case of a person appointed under sub section (1) (h); and

(c) is a resident of the county or sub-county as the case may be.

(5) The term of office of a member appointed under sub-section (1) (a), (d), (e), (f), (g), (h) and (i) shall be three years which may be renewed for a further final term after which the person shall retire from the board for at least three years before being eligible for appointment to the board.

(6) The secretary shall provide secretariat services to the board.

(i) shall be three years which may be renewed for one further and final term after which the person shall retire from the Board for at least three years before being eligible for appointment to the board.

Functions of the board

10. (1) The Board shall be responsible for—

(a) providing oversight over the administration and management of the hospital;

(b) promoting the development of the hospital;

(c) approving plans and programs for implementing county health strategies in the Hospital;

(d) approving annual estimates before submission to the County Executive member; and

(e) carrying out any other function in furtherance of the realization of the purpose of the hospital.

(2) The Board may make recommendations to the County Executive Member on any matter necessary for better management and operation of the hospital.

(3) The remuneration of the members of the Board shall be as determined by the Executive Committee Member in consultation with SRC.

Committee of health center or dispensary

11. (1) A health center or dispensary shall be administered by a committee appointed by the County Executive Member with the approval by the County Executive Committee, consisting of—

(a) non-executive chairperson;

(b) the officer in-charge of the facility;
(c) one person representing faith based organizations or non-
governmental organizations providing health services;

(d) three persons nominated by the local residents representing—
   (i) women;
   (ii) men;
   (iii) a person who has knowledge in matters of accounting or
        finance.

(2) A person shall not be eligible for appointment as a chairperson of
a health center or a dispensary unless the person—
   (a) possess at least a diploma from a recognized institution;
   (b) has at least three years’ experience in management, leadership or
       administration; and
   (c) a resident in the sub-county or the ward.

(3) A person shall not be eligible for appointment as a member under
subsection (1)(c) and (d) unless the person—
   (a) possess at least post-secondary certificate from a recognized
       institution;
   (b) has at least three years’ experience in community health,
       development administration or leadership; and
   (c) a resident in the ward.

(4) The term of office of a member appointed under subsection
(1)(a)(c) and (d) shall be three years which may be renewed for one
further and final term after which the person shall retire from the
Committee for at least three years before being eligible for appointment to
the Committee.

(5) The Committee shall be responsible for—
   (a) providing oversight over the administration of the health center or
       the Dispensary;
   (b) promoting the development of the health center or the dispensary;
   (c) approving plans and programs for implementing county health
       strategies in the health center or the dispensary;
   (d) approving annual estimates of the health center or the dispensary
       before submission to the County Executive Member; and
   (e) carrying out any other function in the furtherance to the
       realization of the purpose of this Act.
Conduct of business

12. (1) The conduct and regulation of the business and affairs of the Board or a committee established under section 9 and 11 shall be as set out in the First Schedule.

(2) Except as provided in the First Schedule, the board or the committee established under section 9 and 11 may regulate its own procedure.

Removal of office

13. (1) A person appointed under section 9 and 11 may—

(a) at any time resign by issuing notice in writing to the County Executive Member; and

(b) be removed from office by the County Executive Committee Member on the advice of the County Health Management team for—

(i) serious violation of the Constitution or any other written law;

(ii) gross misconduct, whether in the performance of the functions of the office or otherwise;

(iii) physical or mental incapacity to perform the functions of the office;

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

(v) incompetence; or

(vi) bankruptcy.

Management of county health facilities

14. (1) Subject to section 9 and 11—

(a) the Medical Superintendent shall be responsible for the day to day management of the hospital; and

(b) the officer in charge of a center or a dispensary shall be responsible for the day to day management of the health center or dispensary.

(2) The County Executive Member shall prescribe the manner of management of the health units which shall include—

(a) linkages and integration with health facilities;

(b) supervisory mechanism; and

(c) reporting mechanism.
(3) A Board of hospital a Committee of a dispensary shall submit management reports to the Executive Committee Member which shall include among others—

(a) financial reports;
(b) matters related to human recourse management; and
(c) status of service delivery in the health facility.

**Operational Guidelines and Standards for Administration of Health Facility**

15. (1) Subject to the national policy, standards and norms and in consultation with the national government, the County Executive Member shall prescribe for operational policies and guidelines for management and administration of a county health facility.

(2) Each county health facility shall, with the approval of the County Executive Member, establish such professional and management teams as may be necessary for the purposes of effectively carrying out their functions.

**PART III—HEALTH SERVICES DELIVERY**

**Requirements for health service delivery system.**

16. The Department and each County health facility adopts health service delivery system that is-

(a) effective;
(b) safe;
(c) of good quality;
(d) cost effective;
(e) accessible;
(f) based on continuity of care across health conditions, across different locations and over ;
(g) demand driven;
(h) integrated;
(i) personal or non-personal to the targeted users when they are needed ;
(j) adequately resourced; and
(k) non-discriminatory.

**Cooperation collaboration**

17. The department shall ensure that there is effective cooperation and collaboration with national government in delivery of services .
Application of national law standard and policy

18. Section 19, 20, 21 and 22 shall be subject to the national standard and policy as may be from time to time be determined in national legislation or policy.

Rights and duties of health care personnel

19. (1) A health care personnel shall have a duty to—

(a) provide health care conscientiously and to the best of the personnel's knowledge, within the scope of practice and ability, to every person entrusted to the health care personnel's care;

(b) inform a patient, in a manner commensurate the patient's understanding, health status and of—

(i) the range of available diagnostic procedures and treatment options and the availability costs thereof;

(ii) the benefits, risks, costs and consequences which may be associated with each option and

(iii) the right of the person to refuse any treatment or procedure.

(2) A healthcare personnel shall have the right to a safe working environment that minimizes the risk of disease transmission and injury or damage to the health care personnel.

Rights and Duties of a patient.

20. (1) Every person as the right to—

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

(b) to be treated with a professional standard of care, by appropriately qualified and experienced staff in a properly approved or registered organization that meets required levels of safety and quality;

(c) be treated with dignity, respect and have their privacy respected in accordance with the Constitution and this Act; and

(d) right to emergency services.

(2) A patient shall have 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 establishment;
(c) supply the health care provider with accurate information pertaining to the patient’s status;
(d) cooperate with the health care provider;
(e) treat health care providers and health workers with dignity and respect; and
(f) if so requested, to sign a discharge certificate or release of liability if the patient refuses to accept or implement recommended treatment.

Consent.

21. (1) No health service may be provided to a patient without the patient’s informed consent unless—
(a) the patient is unable to give informed consent and such consent is given by a person—
   (i) mandated by the patient in writing to grant consent on the patient’s behalf; or
   (ii) authorized to give such consent in terms of any law or court order;
(b) the patient is unable to give informed consent and no person is mandated or authorized to give such consent, but the consent is given by the next of kin;
(c) the provision of a health service without informed consent is authorized by an applicable law or court order;
(d) the patient is being treated in an emergency situation;
(e) failure to treat the user, will result in a serious risk to public health; and
(f) any delay in the provision of health service to the patient might result in death or irreversible damage to the patient’s health and the patient has not expressly, or by implication or by conduct refused that service.

(2) A health care provider shall take all reasonable steps to obtain the user’s informed consent.

(3) For the purposes of this section “informed consent” means consent for the provision of a specified health service given by a person with legal capacity to do so and who has been informed.

Confidentiality
22. (1) Information concerning a patient, including information relating to the patient’s health status, treatment or stay in a health facility is confidential.

(2) Subject to the Constitution and this Act no person may disclose any information contemplated in subsection (1) unless—

(a) the patient consents to such disclosure in writing in the prescribed form;

(b) a court order or any applicable law requires such disclosure; or

(c) non-disclosure of the information represents a serious threat to public health.

(3) Proposed disclosure of any information under subsection 2(c) shall be subject to regulations prescribed by the County Executive Member.

Health policies and measures.

23. (1) The Department shall ensure that—

(a) the provision of health services under this Act shall be aimed at achieving the prescribed health outcomes; and

(b) the health policies, plans, budget and implementation of the policies are developed and implemented with the aim of achieving the prescribed health outcome.

(2) The health outcomes described under subsection (1) shall conform to the national policy, standards, norms and the guidelines prescribed by the World Health Organization.

Health Promotion policies

24. (1) The department shall, in collaboration with the public or private sector agencies, develop or strengthen and implement cross-sector health promotion policies and programs that—

(a) promote health and well-being;

(b) create supportive environment to enable people live healthy lives;

(c) address inequality and wider determinants of health that are oriented towards reduction of non-communicable diseases;

(d) promote and enhance capacity of local communities and individuals for health promotion; and

(e) Support partnerships for health promotion.

(2) The Department shall, in each year—
(a) conduct an assessment of the extent to which other county policies integrate and support health promotion; and
(b) prepare a report of assessment conducted under the assessment conducted under paragraph(a) and shall submit the report to the County Executive Member for transmission to the County Executive Committee for consideration.

(3) The County Executive committee shall establish an Inter-governmental committee for coordinating development and implementation of cross-sector health promotion policies stipulated under this section.

(4) The Committee established under subsection (3) shall consist of all relevant county government department or agency and any relevant national government department or agency.

(5) In each year, the department shall prepare a report of the assessment conducted under subsection (2) and shall submit the report to the County Executive Committee for consideration.

Primary health care

25. (1) The community health unit, dispensary and health center shall be the basic units of primary health care.

(2) The Department shall develop and coordinate implementation of primary health care policies and programs as prescribed by World Health Organizations and the national policy.

(3) The County Executive Committee Member shall ensure that each community unit, dispensary and health center is resourced sufficiently in order to enable it provide primary health care.

Disease control.

26. (1) The County Executive Member shall within six months after the commencement of this Act, prepare and submit to the County Executive Committee, a health statement providing for magnitude of—

(a) the disease burden and health conditions;

(b) the leading health risk factors in the county and impact on various population groups; and

(c) measures or interventions being undertaken or that are proposed to be undertaken by the county government inorder to reduce disease burden or risk factors or mitigate their impact.

(2) The health statement shall inform the process of preparing the health plan under section 27 as well as policy, design and implementation.
(3) The Department or a county health facility may collaborate and partner with other counties and national government in order to control diseases, health conditions or health risk factors.

(4) The Department shall within twelve months after the preparation of the health statement described under sub section (1) prepare the necessary policies, laws and programs for controlling, reducing or mitigating the impact of the health risk factors.

(5) The health risk factors described under this section shall include tobacco consumption, alcohol and drug use, unsafe sex and cardiovascular diseases among others.

(6) The County Executive Member shall within twelve months upon the commencement of this Act, cause to be prepared the health related laws and policies stipulated under the Second Schedule.

Health plan.

27. (1) In accordance with the County Governments Act, 2012 (No.17 of 201), the Department shall prepare a ten year health plan which shall provide among others for—

(a) investment in physical infrastructure in the county health facilities;

(b) human resource strategy and development;

(c) strategies for controlling key risk factors including tobacco use and alcohol abuse;

(d) specific and targeted strategies for controlling and mitigating the impact of communicable and non-communicable diseases and conditions as well as injuries prevention;

(e) implementation of national policies at the county level;

(f) strategies for health promotion as stipulated under section 24;

(g) strategies for community engagement and action; and

(h) any other matter that the County Executive Member may require.

(2) The health plan may provide for specific targeted interventions based on the sub-county ward or villages as may be appropriate.

(3) The health plan shall for the purposes of Section 107 of the County Governments Act, be the health sector plan and may be reviewed annually.

(4) The health plan shall be adopted by the county executive committee.
Planning Units

28. (1) Each county health facility established under section 7 shall be a planning unit.

(2) Each planning unit shall—

(a) develop five year strategic plan which shall be approved by the respective Board or Committee and by the County Executive Committee;

(b) prepare annual estimates of income and expenditure; and

(c) implement county health policies and programs at the respective level.

(3) A strategic plan prepared under subsection (1) shall be in accordance with the health plan prepared under section 27.

Specialized units.

29. (1) The County Executive Member shall in consultation with the County Executive Committee designate and facilitate establishment of specialized healthcare units in specified county health facilities.

(2) The specialized units shall be established on the basis of disease, health condition or age and shall include among others—

(a) maternal health;

(b) child health; and

(c) mental health.

(3) The County Executive Member shall ensure that the specialized units—

(a) established under this section are equitably distributed within the county;

(b) described under section (2)(a), (b) and (c) are established within one year upon the commencement of this Act; and

(c) are established and managed as model specialized units and centers of excellence in their respective areas of specialization.

(4) For the purposes of this section, "center of excellence" means a facility that adopts and maintains quality service delivery, modern management practices, efficient and effective practices and a model for learning to other health related specialized units.

County Health Management Team.

30. (1) There is established the County Health Management Team.
(2) The health management team shall consist of —

(a) the Chief Officer in charge of health services who shall be the chairperson;

(b) the administrative officer of the Department who shall be the secretary;

(c) all heads of the units in the Department at the county;

(d) the Medical superintendents of the county referral hospital; and

(e) Sub-county Medical Officer of the Health facility (MOH).

(3) The county health management team shall be responsible for—

(a) coordinating implementation of this Act and other health policies in the County;

(b) providing supervision and support to the management of the county health facilities and sub county health management teams.

(c) exercising disciplinary measures over health personnel working in the county as may be prescribed under subsection (6);

(d) reviewing and monitoring the implementation of this Act and advising the Department on appropriate measures to be adopted for the effective implementation of this Act;

(e) facilitating county health facilities in the sub county to comply with the established standards in accordance with section 33; and

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

(4) The County Health Management Team shall convene at least one quarterly meeting with the sub county health management team.

(5) The County Health Management Team shall prepare and submit quarterly report of its operations to the Department, which shall inform the preparation of the reports under section 38.

(6) The County Executive Member shall, in consultation with the County Health Management Team prescribe guidelines for governing operations of the County Health Management Team.

Sub county Health Management Team.

31. (1) There is established in each sub county, the Sub County Health Management Team.

(2) The sub county health management team shall consist of—
(a) the medical officer in-charge of the sub county who shall be the chairperson;
(b) the sub county health administrative officer who shall be the secretary;
(c) the heads of units in the department at the sub county;
(d) the medical superintendents of the sub county hospitals; and
(e) any other officer as the County Executive Member may designate in consultation with the County Health Management Team.

(3) The sub county health management team shall be responsible for—

   coordinating implementation of this Act and other health policies in the sub county;
   (a) providing supervision and support to the management of the county health facilities in the sub county.
   (b) Reviewing and monitoring the implementation of this Act; advising the Department on appropriate measures to be adopted for effective implementation of this Act;
   (c) Exercising disciplinary measures over health personnel working in the sub county as may be prescribed under subsection (6);
   (d) carrying out needs and capacity assessment for county health facilities;
   (e) In consultation with the county health management team, facilitating capacity building of health personnel at the sub county;
   (f) facilitating county health facilities in the sub county to comply with the established standards in accordance with section 33; and
   (g) carrying out any other function as may be assigned by the County Executive Member.

(4) The Sub county health management team shall prepare and submit quarterly report of its operations to the county health management team.

(5) The Department shall provide secretariat services to the county and sub county health management team.

(6) The County Executive Member shall in consultation with the County Health Management Team and the Sub County Health Management Team prescribe guidelines for governing operations of the Sub County Health Management Team.
(7) The Sub County Health Management Team shall meet at least once every month.

Health Information System.

32. (1) The Department shall establish a county health information system that shall apply to all county health facilities and units in the Department.

(2) The Department shall—
(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 the data and health statistics by the department are accessible to any member of the public or to any government agency.

(3) The health information system described under this section shall be coordinated and interlinked with the national health information management system.

Quality Management System.

33. (1) Each health facility shall have a Quality Management System, which shall be certified under the recognized International Quality Standards and any other certification applicable to health services.

(2) The County Executive Member shall ensure that within 10 years after the commencement of this Act, each health facility and the Department are certified under this section.

Quality and Compliance Assurance Unit.

34. (1) The County Executive Member shall establish in the Department, the Quality and Compliance Assurance Unit.

(2) The Quality and Compliance Assurance Unit shall be responsible for carrying out of inspections and health systems audit in the county health facilities in order to ensure compliance with established standards and quality management systems established under section 33.

Conduct of quality and Compliance inspections and audit.

35. (1) The County Executive Member shall prescribe the standards and procedures for conducting inspections and health systems audit under section 34.

(2) The Quality and Compliance Assurance Unit shall—
(a) carry out scheduled or non-scheduled inspections and health systems audit in county public health facilities;

(b) conduct once every three years, a comprehensive health systems audit and assessment of each county health facility; and

(c) collaborate with the county and sub county health management teams.

(3) A person in charge of a county hospital shall provide the necessary support and information to the Quality and Compliance Assurance Unit in order to enable it carry out its functions.

(4) A person who fails to comply with subsection (3) shall be deemed to have breached the code of conduct for county public service and shall be subject to the prescribed disciplinary measures therein.

(5) Subject to section 41, the Quality and Compliance Assurance Unit may conduct inspections and health systems audit in private health facilities.

(6) The Quality and Compliance Assurance Unit shall prepare and submit—

(a) a report for each facility inspected or audited and submit it to the management of the facility, the county health management team; and

(b) a report of its operations to the County Executive member every six months.

Medical Supplies.

36. The County Executive Member shall—

(a) In consultation with the County Executive Committee, establish a system which ensures that essential medical supplies are available and accessible in each county health facility.

(b) Ensure that the medical supplies are of good quality and meet the standards prescribed under any written law; and

(c) Adopt appropriate measures for ensuring cost effectiveness in procurement, supply, storage and distribution systems for medical supplies.

Complaints management.

37. (1) A person who is dissatisfied with a service provided by the Department, a unit of the Department or a county health facility may lodge a complaint with the officer in charge of the Department or health facility.
(2) The Department or a health facility shall establish a system of receiving and addressing complaints raised under this section.

(3) An officer described under subsection (1) shall, within forty eight hours respond to the complaint lodged and take the appropriate action.

(4) A person who is not satisfied with the response provided under subsection (3) may lodge the complaint with the Department and where the complaint relates to the Department, the complaint shall be lodged with the Chief Officer.

(5) The Department or the Chief Officer shall respond to the complaint within forty eight hours and take the appropriate action.

(6) The Department shall prepare and submit a quarterly report to the County Executive Member on matters related to the complaints lodged under subsection (4) and the actions taken.

Quarterly reports.

38. The Department shall prepare quarterly reports on the implementation of this Act which shall be transmitted to the county executive committee for consideration.

Health Status Report.

39. (1) The Department shall, not later than three months after the end of each financial year, prepare a health status report which shall consist of —

(a) the status of implementation of the Act during the Year;

(b) the extent of consultation, cooperation and collaboration with national government and other county governments as stipulated under section 17;

(c) the progress towards the implementation of the health plan prepared under section 27.

(d) the measures taken to control and mitigate the impact of the health risk factors;

(e) the level of disease burden disaggregated in terms of age, gender, social status and ward, communicable diseases and injuries prevention among others;

(f) challenges faced in the implementation of the Act and proposed mitigation measures;

(g) measures taken and progress made towards health promotion and implementing the respective policies;
(h) emerging patterns or trends in lifestyle within the county or at national level which may negatively impact on health in the county;

(i) the level and status of compliance with quality standards established under section 33;

(j) progress and status of supervision and oversight over private health facilities as stipulated under section 41;

(k) generally any matter related to the implementation of this Act; and

(l) any other matter as the County Executive Member may require.

(2) The County Executive Member shall, within fourteen days of receiving the annual report submit it to the County Executive Committee and thereafter within twenty one days transmit it to the Clerk of the County Assembly for tabling before the County Assembly for consideration.

(3) The County Executive Member shall—

(a) publish the report prepared under subsection (1);

(b) publicize the report to county residents; and

(c) facilitate the collation of views and feedback from county residents in relation to the report.

County Health Sector Stakeholders Forum.

40. (1) There is established The County Health Sector Stakeholders Forum, which shall consist of all government, faith based organizations, private sector, county residents who are stakeholders in the health sector.

(2) The County Health Sector Stakeholders Forum shall be responsible for—

(a) advising the County Executive Member on the appropriate policies to be adopted for better implementation of this Act;

(b) reviewing, monitoring and evaluation of the implementation of this Act and county health policies and programs and advising the County Executive Member on appropriate measures to be adopted;

(c) providing an avenue for joint planning and implementation of health policies and programs under this Act;
(d) facilitating a framework and structure for joint and part funding of county health services by the health services by the health stakeholders; and

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

(3) There shall be an Executive Committee of the County Health Sector Stakeholders Forum consisting of—

(a) a chairperson who shall be appointed by the County Executive Member in consultation with the County Health Management Team;

(b) the Chief Officer responsible health services who shall be the secretary who shall be the secretary to the Executive Committee of the Forum;

(c) the County Health Director;

(d) County Public Health Officer;

(e) one person representing development partners in health services in the county;

(f) one person nominated by the faith based organizations providing health services in the county;

(g) one person by the women organizations providing health services in the county;

(h) one person nominated by the non-governmental organization providing health services in the county;

(i) one person representing private health care providers in the county;

(j) one person nominated by health professionals associations in the county; and

(k) one person nominated by the organization of persons with disabilities.

(4) The Committee shall be responsible for coordinating the activities of the forum and providing liason between the stakeholders and the Department.

(5) The County Executive Member shall prescribe the conduct of the affairs and business of the forum and the executive committee established under subsection (3).
(6) The County Executive Member shall publish a list of all government and non-governmental or private sector stakeholders stipulated under subsection (1).

(7) The Forum shall meet at least three times in a year, provided that not more than four months shall expire before holding a meeting.

**Supervision of private health facilities in the county**

**41.** (1) Subject to the national policy and standards and in consultation with the national government, the County Executive Member shall provide and facilitate oversight and supervision over private health facilities or programs operating in the county to ensure compliance with the established standards.

(2) A private health facility described under subsection (1) may either be—

(a) faith based health facility

(b) for profit private health facility; or

(c) not for profit private health facility;

(3) Notwithstanding subsection (1), a private health facility—

(a) that is not licensed to operate under the relevant written law shall not be granted a business permit or such prescribed county licenses; or

(b) shall not be granted the annual business permit or relevant county licenses unless it complies with the prescribed policy and standards related to health facilities.

**PART 111—FINANCIAL PROVISIONS**

**Funds.**

**42.** (1) The funds for financing the implementation of this Act shall consist of—

(a) such grants or transfers as may be received from the national government;

(b) such monies as may be appropriated by the County Assembly;

(c) grants and donations received from any lawful source;

(d) such other monies received from national government as conditional grants, for services rendered to patients in accordance with the established system;
(2) Subject to subsection (3), a county health facility may charge such user charges or fees for the services rendered.

(3) The County Executive Member shall prescribe the user charges and fees payable under each county health facility as approved by the County Executive Committee and the County Assembly.

**Procurement**

43. (1) The Department shall be a procuring entity for the purposes of procuring medical supplies and goods and services utilized for the purposes of implementing this Act.

(2) Notwithstanding subsection (1), a hospital classified as a county hospital under section 7 shall be a procuring entity.

(3) The Department or a hospital stipulated under subsection 2 shall establish a tender committee in accordance with the Public Procurement and Disposal Act, 2005 and with the approval by the County Treasury.

(4) The County Executive Member shall in consultation with the County Executive Committee ensure that the procurement system for medical supplies in the county is harmonized and efficient.

(5) The Department or a county hospital described under subsection (1) shall not procure any medical supply that does not conform to the standards prescribed under any written law.

(6) A manufacturer or supplier who supplies any medical supply which does not meet the prescribed standards shall be barred from supplying any medical supply to the county government.

**PART IV—GENERAL PROVISIONS**

**Health laws and policies.**

44. The County Executive Member shall, within eighteen months upon commencement of this Act, prepare and submit to the county executive committee and the county assembly for enactment or adoption the laws and policies stipulated under the Second Schedule.

**Regulations.**

45. (1) The County Executive Member may make Regulations generally for the better carrying out of the objects of this Act.

(2) Without prejudice to the generality of subsection (1), the Regulations may—

(a) prescribe for the health facilities under the provided categories;
(b) Prescribe the number of dispensaries and community units in a ward;

(c) Prescribe the manner of electing members to the health centres and dispensaries committees;

(d) Prescribe for operational policies and guidelines for management and administration of a county health facility;

(e) Prescribe the health outcomes;

(f) Prescribe the operational guidelines for management and administration of health facilities;

(g) Prescribe the standards and procedures for conducting inspections and health systems audit;

(h) Prescribe data and information to be collated from private health service providers; and

(i) Prescribe the procedure of conduct of the business of the county health sector forum and its executive committee.
First Schedule  

PROVISION AS TO THE CONDUCT OF BUSINESS AND AFFAIRS OF THE BOARD AND COMMITTEE.

Meetings.

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

(4) The quorum for the conduct of the business of the Board shall be five members and for the Committee three members including the chairperson or the person presiding.

(5) The chairperson shall preside at every meeting of the Board or Committee at which he is present but, in his absence, the members present shall elect of their members to preside, who shall, with respect to that meeting and the business transacted thereat, have all powers of the chairperson.

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

(7) Subject to subparagraph (4), no proceedings of the Board or Committee shall be invalid by reason only of vacancy among the members thereof.

Conflict of interest

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

(2) A member of the Board or Committee shall be considered to have
a conflict of interest for the purposes of this Act if he requires any
pecuniary or other interest that could conflict with the proper performance
of his duties as a member or employee of the Board or Committee.

(3) Where the Board or Committee becomes aware that a member has
a conflict of interest in relation to any matter before the board or
committee, the Board or Committee 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 executive member in writing.

(5) Upon the Board or Committee becoming aware of any conflict of
interest, it shall make a determination as to whether in future the conflict is
effective performance of the functions and duties of the member or the
Board or Committee and the member with the conflict of interest shall not
vote on this determination.

Code of Conduct

3. The Board or Committee shall comply with the code of conduct
governing public officers.

Minutes

4. The Board or Committee shall cause minutes of all resolutions and
proceedings of meetings of the Board or Committee to be entered in books
kept for that purpose.
Laws and policies to be enacted or adopted

1. Environmental health
2. Occupational safety
3. Public Health
4. Tobacco control
5. Treatment and rehabilitation for alcohol and drug dependency
6. Mental health
7. Sanitation and water quality
8. Food safety and control
9. Ambulance services
MEMORANDUM OF OBJECTS & REASONS

The principle object of the Bill is to provide for the promotion of healthcare and improvement of health facilities within the county. It recognizes the fact that provision of county health service is a devolved function whose implementation is wholly within the county under section 2 of Part 2 of the Fourth Schedule to the Constitution.

The Bill therefore provides as follows—

**PART I** – deals with the preliminaries of the Act including the short title, interpretation of words used in the Act, the purpose of the Act and principles of health services delivery.

**PART II** deals with health services management. In particular, it provides for the functions of the department, classification and establishment of county health facilities and its management. It also provides for the operational guidelines and standards for administration of a health facility.

**PART III** makes provisions for health services delivery, requirements for health services delivery, cooperation and collaboration. In particular it sets outs the rights and duties of the patient and health personnel, health policies and measures and health planning and management of health facilities.

**PART IV** deals with financial provisions. In particular it provides for the sources of funding, management and procurement of medical supplies and goods.

**PART VI** sets out the general provisions. It provides for the preparation of health laws, policies and regulations by the County Executive Member.

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

Dated the 9th January, 2017.

JOSEPHINE CHEPRUM,
Vice-chair, Health Services Committee.