Bill for Introduction into the County Assembly of Migori—

The Migori County Health Services Bill, 2018 .............................................................. 1
THE MIGORI COUNTY HEALTH SERVICES BILL,
2018
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THE MIGORI COUNTY HEALTH SERVICES BILL, 2018

A Bill for

AN ACT of the County Assembly of Migori to provide for the promotion of health care services and the management of county health facilities and for connected purposes

ENACTED by the County Assembly of Migori as follows—

PART I—PRELIMINARY

Short Title

1. This Act may be cited as the Migori County Health Services Act, 2018.

Interpretation

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

“county” means the County Government of Migori;

“county health facility” for the purposes of this Act means a County Public Health Facility;

“committee” means the Committee of Health Centre or dispensary established under section 14;

“chief officer” means the Chief Officer responsible for County Health Services;

“department” means the County Department responsible for County Health Services established under section 5;

“director” means the County Director of Health Services appointed under section 7;

“executive member” means the member of the County Executive Committee responsible for County Health Services;

“health care provider” means a person who provides health care services and includes a health care professional;

“hazardous waste” means controlled waste which has the potential, even in low concentrations, to have significant adverse effect on the environment and human health on account of its inherent chemical and physical characteristics, such as toxic, ignitable, corrosive, or other properties;

“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 empowerment of patients, their relatives and employees in the improvement of health-related physical, mental and social well-being;

"medical supplies" includes pharmaceuticals, non pharmaceuticals, nutriceuticals, vaccines and therapeutic anti-sera, medical equipment and devises, 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;

"preventive" means measures taken for disease prevention as opposed to disease treatment;

"referral" means the process by which a given health facility transfers a client service, specimen and client parameters to another facility to assume responsibility for consultation, review or further management;

"rehabilitation" means specialized healthcare dedicated to improving, maintaining or restoring physical strength, cognition and mobility with maximized results after illness, injury or surgery; and

"user" means any person who seeks or intends to seek medical care from a health care provider or a health facility.

**Purpose of the Act**

3. The purpose of the Act is to—

(a) give effect to section 2 Part II of the Fourth Schedule to the Constitution;

(b) enhance resource flow for health sector to improve effective and efficient service delivery;

(c) provide for the promotion and provision of health services;

(d) provide for the management of county health care facilities; and

(e) facilitate the realization of the highest attainable standard of health including the right to health care services and reproductive health care.

**Guiding Principles**

4. The guiding principles to which this Act is anchored, shall be—

(a) the values and principles as enshrined in Article 10 and 232 of the Constitution; and

(b) management of health services in line with national and international standards.
PART II—HEALTH SERVICES MANAGEMENT

County Department

5. There is established the County Department responsible for health services in line with the national health policy guidelines for setting up a County Health System and shall in all matters be answerable to the Governor and the County Assembly subject to the provisions of the Constitution and any applicable written law.

Functions of the Department

6. (1) The Department shall be responsible for—

(a) the provision and co-ordination of promotive, preventive, curative and rehabilitative health services;

(b) the development of the county health policies, laws and programmes;

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

(d) the co-ordination of ambulance and referral services;

(e) the co-ordination of health emergency preparedness and response;

(f) the facilitation of the registration, licensing and accreditation of county health facilities, private health facilities and premises;

(g) ensuring of compliance of healthcare standards and Regulations by public and private health facilities;

(h) the establishment, designation and regulation of cemeteries, funeral homes and crematoria;

(i) the establishment of supplementary sources of income for the provision of health services, in so far as these are compatible with the applicable laws;

(j) the management of the human resource personnel under the department;

(k) the facilitation of capacity building and professional development for health service personnel;

(l) overseeing the management and governance of county health services;

(m) the setting of standards on environmental health and sanitation;
(n) the co-ordination and liaison of departmental activities with other county departments, county governments and the national government in the implementation of health policies, laws and programmes;

(o) the provision of a conducive environment for users and health service providers;

(p) the development of a health monitoring and evaluation framework to guide the use of resources and implementation of health priorities;

(q) the development, equipping and maintenance of the county health facilities;

(r) conducting research in collaboration with the national government and other relevant research institutions on matters falling within the scope of this Act;

(s) collection of user charges and licensing fees on matters falling within the scope of this Act or any other law;

(t) the establishment and gazetting of county health facilities;

(u) procuring and managing of essential health products and technologies in accordance with set standards;

(v) promotion of public participation in health matters within the county; and

(w) the carrying out of any other function for the realization of the purpose of this Act as the Executive Member may assign from time to time.

(2) The department may from time to time establish a management structure at the department and sub county level in line with the national polices on health.

County Director of Health Services

7. (1) There is established the office of the County Director of Health Services.

(2) The Director shall be recruited through a competitive process in conformity with the rules and regulations set from time to time by the County Public Service Board.

(3) A person appointed as Director of Health shall—

(a) be a medical practitioner registered by the Medical Practitioners and Dentists Board;
(b) be at least a holder of a Masters Degree in public health or any other health related discipline; and

(c) have at least five (5) years experience at a senior management level in health services.

(4) The Director shall —

(a) be the technical advisor on matters relating to health within the county;

(b) be the technical advisor to the Executive Member and the Governor;

(c) supervise all health services within the county;

(d) promote public health and the prevention, limitation or suppression of infectious, communicable or preventable diseases within the county;

(e) promote and facilitate research and investigations in connection with the prevention or treatment of human diseases;

(f) prepare and publish reports and statistical or other information relating to health services within the county;

(g) report periodically to the office of the National Director-General of health on all public health occurrences including disease outbreaks, disasters and any other health matters; and

(h) Perform any other duties as may be assigned by the Executive Member and any other written law.

Staff

8. The Chief Officer shall in accordance with section 62(3) of the County Governments Act, make representations to the County Public Service Board on the establishment of offices and appointment of such number of staff for the department, including county health facilities and specialized units according to set norms and standards.

Classification and Functions of the County Health Care Delivery Levels

9. The classification and functions of the County Health Care Delivery Levels is as prescribed in the First Schedule to the Health Act and shall include—

(a) community health services;

(b) dispensary/clinic;

(c) health centre;
(d) level four; and
(e) level five;

Establishment of Health Facilities

10. (1) There shall be—
   (a) at least a Level Five Hospital within the county;
   (b) in each sub-county, at least one Level Four Hospital;
   (c) in each ward, at least a health centre; and
   (d) such number of dispensaries and community health units in each ward as the Executive Member may from time to time, determine.

   (2) The facilities referred to in subsection (1), shall meet such standards as prescribed by the department.

Establishment of County Hospital Management Board

11. (1) There is established a County Hospital Management Board.

   (2) The board shall be appointed by the Governor and shall consist of—
      (a) a non Executive Chairperson;
      (b) the medical superintendent who, shall be the secretary;
      (c) the area sub-county administrator appointed under section 50(2) of the County Governments Act, 2012 or a representative nominated in writing;
      (d) seven other persons from within the county of whom—
         (i) one shall have knowledge and experience on health matters;
         (ii) one with knowledge and experience in finance and administration;
         (iii) one person representing the minority group within the county;
         (iv) one person representing persons with disability;
         (v) one representing the youth;
         (vi) one person representing faith based organizations nominated by a joint forum of the organizations in the county or sub county and;
(vi) one representing the women;

(3) The board may co-opt any person with the necessary expertise for effective discharge of its functions under this Act.

(4) A person is eligible for appointment as a Chairperson of the board under this section if the person—

(a) holds at least a university degree from a university recognized in Kenya;
(b) have demonstrated high level of integrity and leadership at senior level either in public or private sector;
(c) not a serving state officer; and
(d) satisfies the provisions of Chapter Six of the Constitution.

(5) A person is eligible for appointment as a member of the board under section 13(2)(d) of this Act if the person—

(a) holds at least a post secondary qualification or its equivalent;
(b) have demonstrated high level of integrity and leadership at senior level either in public or private sector;
(c) not a serving state officer; and
(d) satisfies the provisions of Chapter Six of the Constitution.

(6) a member of the board except the ex officio shall hold office for a period of three years and may be eligible for appointment for one further term—

Establishment of Sub-County Hospital Management Board (14)

12. (1) There is established a Sub-County Hospital Management Board for each sub-county.

(2) The board is appointed by the Executive Member and shall consist of—

(a) a non-Executive Chairperson;
(b) the area sub-county administrator appointed under section 50(2) of the County Governments Act, 2012 or a representative nominated in writing;
(c) the medical superintendent who, shall be the secretary;
(d) at least five other persons of whom—
   (i) one shall have knowledge and experience on health matters;
(ii) one with knowledge and experience in finance and administration;

(iii) one person representing the minority group within the county;

(iv) one person representing persons with disability;

(v) one representing the youth; and

(3) The board may co-opt any person with the necessary expertise for effective discharge of its functions under this Act.

(4) A person is eligible for appointment as a Chairperson of the board under this section if the person—

(a) holds at least a university degree from a university recognized in Kenya;

(b) have demonstrated high level of integrity and leadership at senior level either in public or private sector;

(c) not a serving state officer; and

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

(5) A person is eligible for appointment as a member of the board under section 13(2) (d) of this Act if the person—

(a) holds at least a post secondary qualification or its equivalent.

(b) have demonstrated high level of integrity and leadership at senior level either in public or private sector;

(c) not a serving state officer; and

(d) Satisfies the provisions of Chapter Six of the Constitution.

(6) a member of the board, apart from the ex officio, shall hold office for a period of three years and may be eligible for appointment for one further term.

**Functions of Hospital Management Board**

13. The functions of County Hospital Management Board under this Act, shall be to—

(a) ensure user care and the overall quality of health services in the hospital;

(b) represent community interests in resource allocation and planning within the hospital;
(c) articulate and represent local community interests on health matters in local development forums;
(d) facilitate feedback process to the community pertaining to the operations and management of the hospital; and
(e) mobilize community resources towards the development of health services within the hospital.

Responsibilities of the Secretary

14. The responsibilities of the secretary to the County Health Services Board and County Hospital Management Board shall be to—
(a) convene board meetings in consultations with the Chairperson;
(b) keep records of the deliberations of the board;
(c) communicate decisions of the board to all persons affected by such decisions; and
(d) perform any other function as may be assigned by the board from time to time.

Committees of the Boards

15. (1) The County Hospital Management Board may establish committees to effectively discharge their functions under this Act.
(2) Without prejudice to the generalities of subsection (1), the boards may establish the following committees—
(a) finance and Administration Committee;
(b) audit Committee;
(c) special ad hoc Committee; and
(d) general Purpose Committee.

Health Centre and Dispensary Management Committees

16. (1) There shall be a Health Facility Management Committee for each health centre and dispensary within the county.
(2) The Management Committee referred to in subsection (1) shall consist of—
(a) the ward administrator of the area of jurisdiction;
(b) the ward representative of the area of jurisdiction who shall be an ex officio member;
(c) the in ;
(d) six other members elected by the community within the ward where the health centre or dispensary is charge of the health facility in that area, who shall be the secretary; situated;

(3) The Chairperson shall be nominated from amongst the members elected under Paragraph 18 (2) of this Act.

(4) Members elected under Paragraph 18 (2) shall be persons of integrity in line with Chapter Six of the Constitution and shall hold a minimum academic qualification of Kenya Certificate of Secondary Education or its equivalent.

(5) A member of the committee, except the \textit{ex officio} member, shall hold office for a term of three years and may be eligible for re-appointment for one further term.

(6) The committee shall meet once in each quarter in each financial year and shall maintain records of its deliberations.

(7) The quorum for the meeting of the committee shall be five of the members excluding the secretary.

(8) The committee shall be responsible to the Sub-County Hospital Management Board.

\textbf{Functions of the Committees}

17. The Committee shall—

(a) supervise and control the administration of the funds allocated to a health centre or dispensary;

(b) approve work plans and procurement plans;

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

(d) prepare and submit certified periodic financial and performance reports to the Sub-County Hospital Management Board;

(e) provide general oversight for the general operations and management of the health facility;

(f) articulate and represent local community interests on health matters in local development forums;

(g) facilitate feedback process to the community pertaining to the operations and management of the health facility;
(h) implement community decisions in relation to their own health; and

(i) mobilize resources towards the development of health services within the area.

**Removal From Office**

18. A member of the board or committee may be removed from office for—

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

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

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

(d) being absent from three consecutive meetings of the board or committee without the permission of the Chairperson;

(e) incompetence; or

(f) being adjudged bankrupt.

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

19. The Executive Member may prescribe operational policies and guidelines for effective management and administration of county health facilities in line with the national policies on health.

**PART III—HEALTH SERVICE DELIVERY**

**Requirements of a Health Service Delivery System**

20. The Department and each county health facility shall adopt a health service delivery system that is—

(a) of quality;

(b) effective;

(c) safe;

(d) affordable;

(e) accessible;

(f) based on continuity of care across health conditions, across different locations and over time;

(g) demand driven;
(h) integrated;
(i) personal or non personal to the targeted users when they are needed; and
(j) adequately resourced.

Co-operation

21. The Department shall promote effective collaboration with the national government, other county governments, private institutions, implementing partners and other county departments for efficient delivery of health services.

Rights of Health Care Providers

22. Health care providers shall have the right—
(a) to a safe working environment that minimizes the risk of disease transmission and injury or damage to him or herself;
(b) to adequate equipment and supplies to perform their prescribed duties effectively;
(c) not to be discriminated against on account of any of the grounds set out in Article 27(4) of the Constitution;
(d) to fair remuneration in line with the terms and conditions set out in consultation with the Salaries and Remuneration Commission;
(e) to join, form or participate in a union, welfare or a professional body; and
(f) to access a lactation station in the workplace that is adequately provided with hand washing facilities, cooling facilities, a table and comfortable seats.

Duties of Health Care Providers

23. A health care provider shall have a duty to—
(a) provide health care, conscientiously and to the best of their knowledge, within the scope of practice and ability, to every person entrusted to his or her care;
(b) provide emergency medical treatment;
(c) inform a user of a health system in a manner commensurate with his or her understanding, of his or her health status including—
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(i) the range of available diagnostic procedures and treatment options and the availability and 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 in writing except in instances where the user is diagnosed with a disease or condition that is a health risk to other members of the public.

Rights of a User

24. Every user of a County Health System has the right to—

(a) the highest attainable standard of health including access to reproductive health;

(b) be treated in a clean and healthy environment;

(c) reproductive health care which includes information and access to reproductive health to men and women of reproductive age including safe, effective, affordable and acceptable family planning services;

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

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

(f) refuse any treatment or procedure except in instances where they are diagnosed with a disease or condition that is a health risk to other members of the public.

Duties of a User

25. A user of a County Health System has a duty in the absence of any observable incapacity 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 his or her health status;
(d) co-operate with the health care provider; and
(e) to treat health care providers and health workers with dignity and respect.

Confidentiality

26. Information concerning a user of a county health system including information relating to his or her health status, treatment or stay in a health facility is confidential except where such information is disclosed under order of a court or informed consent for health research purposes.

Consent

27. (1) No specified health service may be provided to a user without the user's informed consent unless—
   (a) the user is unable to give informed consent and such consent is given by a person mandated by the user in writing to grant consent on his or her behalf; or authorized to give such consent in terms of any law or court order;
   (b) the user 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 user is being treated in an emergency situation;
   (e) failure to treat the user, or a group of people which includes the user, will result in a serious risk to public health; or
   (f) any delay in the provision of the health service to the patient might result in his or her death or irreversible damage to his or her health and the patient has not expressly, or by implication or by conduct refused that service.

   (2) A health care provider must 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.

Health Outcomes

28. (1) The Department shall ensure that health policies, plans and budgets are developed and implemented with the aim of achieving the prescribed health outcomes.
The health outcomes described under subsection (1) shall conform to the policy, standards, norms and guidelines prescribed at the national and international level.

Health Statement, Policies and Programmes

29. (1) The 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 should be undertaken by the county government in order to reduce disease burden or risk factors or mitigate their impact.

(2) 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.

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

(4) The health risk factors described under this section shall include tobacco consumption, alcohol and drug use, unsafe sex, unsafe food and unhealthy diet.

Public Health

30. (1) The Department shall devise and implement measures to promote health and to counter influences having adverse effect on the health of the people including—

(a) interventions to reduce the burden of communicable and non-communicable diseases and neglected diseases, especially among indigent population;
(b) promotion of nutritional knowledge at all age levels;
(c) interventions to promote healthy lifestyle including—

(i) counter the excessive use of alcoholic products and the adulteration of such products; and
(ii) reduce the use of tobacco and other addictive substances and to counter exposure of children and others to tobacco smoke.

(d) promotion of school health programme;

(e) general health education of the public;

(f) oversee the development and management of public and private mortuaries, cemeteries and crematoria; and

(g) enforcement of the public health related legislation.

Environmental Health

31. The Department shall ensure that measures for managing environmental risk factors to curtail occurrence and distribution of diseases are put in place and implemented which measures shall target—

(a) the reduction of disease burden arising from poor environmental hygiene, sanitation, occupational exposure and environmental pollution such as mercury and cyanide;

(b) the reduction of morbidity and mortality of waterborne, food borne and vector transmitted diseases;

(c) the fostering of the national and county synergies to address or forestall transmission of diseases of international concern;

(d) building community capacity in providing solutions to public health challenges;

(e) management of hazardous and healthcare waste; and

(f) enforcement of the public health related legislations.

HIV and Tuberculosis Services

32. (1) The Department shall co-ordinate and implement comprehensive HIV and Tuberculosis care and treatment programmes in line with national and international policies towards reduction of new infections including—

(a) promotion of HIV and Tuberculosis testing services;

(b) care and treatment services;

(c) elimination of mother to child transmission;

(d) retention of HIV and Tuberculosis TB positive clients on care;

(e) mobilization of resources towards HIV and Tuberculosis prevention; and
(f) workplace HIV and Tuberculosis care services.

(2) The Department shall advocate for increased budgetary allocation from the county treasury to ensure sustainable HIV and Tuberculosis management.

(3) The Department shall collaborate with the national government and partners in the management and control of HIV and Tuberculosis programmes.

**Non communicable Disease Control Services**

33. The Department shall adopt and co-ordinate implementation of non communicable disease control services, policies and programmes in line with national and international standards that shall include—

(a) surveillance and early detection for prevention and control of non communicable disease; and

(b) promotion, prevention and care of persons with mental illness and their families.

**Maternal, Adolescent and Child Health**

34. The Department shall ensure a comprehensive program to advance reproductive, maternal, neonatal, child and adolescent health including—

(a) safe, accessible, effective, affordable, family planning services;

(b) means to reduce unsafe sexual practices;

(c) adolescence and youth sexual and reproductive health;

(d) maternal and neo-natal and child health;

(e) elimination of female genital mutilation;

(f) maternal nutrition and micro nutrient supplementation;

(g) immunization services; and

(h) sexual and gender based violence management.

**Health Promotion**

35. The Department shall, in collaboration with public or private sector agencies, adopt and implement cross-sector health promotion policies and programmes that—

(a) promote health and well-being;

(b) advocacy to enable people live healthy lives;

(c) address wider determinants of health that are oriented towards reduction of communicable and non communicable diseases;
(d) promote and enhance capacity of local communities and individuals for health promotion; and
(e) support partnerships for health promotion.

Human Nutrition and Dietetics

36. The Department shall devise and implement programmes on human nutrition and dietetics in collaboration with the relevant partners, county departments and persons, to include—
   (a) promotion of healthy diets and appropriate nutritional practices;
   (b) quality, adequate and safe general feeding;
   (c) inter-sectoral collaboration and public-private partnerships for food quality and safety in production of nutrient rich;
   (d) enforcing regulation of nutrition practice and standards.

Eye Health

37. The Department shall develop, adopt and co-ordinate implementation of eye care policies and programmes in collaboration with partners in line with national policy or any other law to include—
   (a) promotion and prevention of avoidable blindness;
   (b) quality, adequate and safe eye health services; and
   (c) mobilization of resources towards affordable eye health services.

Community Health

38. (1) The Department shall adopt and co-ordinate implementation of community health policies and programmes in line with national and international standards.

   (2) The Executive Member shall—
   (a) ensure that each community unit is fully resourced including provision of a stipend for community health volunteers in order to enable it effectively provide primary health care; and
   (b) from time to time review the provision of stipend to the community health volunteers.

E-Health

39. The Department shall adopt and implement e-health policies and programmes in line with national and international towards reduction of new cases including—
   (a) health service delivery through M-health;
(b) E-learning and telemedicine; and
(c) medical tourism.

Health Plans

40. (1) The Department shall prepare a five-year health strategic plan in accordance with this Act and the County Governments Act.

(2) The Department shall prepare and implement a five-year health monitoring and evaluation plan which shall provide for—

(a) the health monitoring and evaluation process; and
(b) the levels and frequency of monitoring and evaluation.

Health Status Report

41. (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 this Act and related programmes and activities during the year; and
(b) the extent of consultation, co-operation and collaboration with national government and other county governments as provided for under this Act.

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

Health Information System

42. (1) The Department shall adopt and maintain a health information system that shall apply to all levels of health care delivery units in the county in line with the national health information system policies.

(2) The Department shall—

(a) establish and maintain a repository for county health information, data and statistics;
(b) collate and analyse data and information from all health service delivery units;
(c) ensure that data and statistics held by the department are accessible to any member of the public or to any government agency provided it does not violate this Act or any other law; and
(d) ensure adoption of electronic medical information systems in county health facilities within two years of commencement of this Act in line with the national policy on electronic medical records.

Specialized Units

43. (1) The Executive Member in consultation with the Director shall seek approval from the County Executive Committee in designating and facilitating the 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—

(a) renal unit;
(b) intensive Care Unit;
(c) maternal health;
(d) child health;
(e) mental health and substance abuse;
(f) trauma and rehabilitative centre;
(g) cancer centres;
(h) diagnostic centres and blood safety service; and
(i) any other that may be deemed necessary.

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

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

(b) described under subsection (2) (a), (b) (e) and (g) of this Act to be established within five years upon the commencement of this Act.

Quality Management System

44. Each county health facility shall establish a Quality Management System, which shall be certified under the recognized national and international quality standards and any other certification applicable to health service.

Medicines and Medical Supplies

45. The Executive Member shall—
(a) in consultation with the Executive Committee, establish a system which ensures that essential medicines and medical supplies are available, accessible and affordable in each county health facility;

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

(c) adopt a logistic management information system for health commodities; and

(d) ensure procurement of health products and technologies for the public health services shall be undertaken in line with—

(i) the Public Procurement and Asset Disposal Act; and

(ii) the inter-governmental arrangements for medicine and medical products agreed upon where the Kenya Medical Supplies Authority and Mission for Essential Drug Supply are the primary suppliers.

Complaints Management

46. (1) Any person has a right to file a complaint about the manner in which he or she was treated at a health facility and have the complaint investigated appropriately.

(2) The Department shall establish and publish the procedure for the laying of complaints within public and private health care facilities within the county.

(3) The procedures for laying complaints shall—

(a) be displayed by all county health facilities in a manner that is visible for any person entering the establishment;

(b) be communicated to users on a regular basis; and

(c) be primarily handled by the head of the relevant facility or any person designated by the facility as responsible for handling user complaints.

(4) Every complainant under subsection (1) has a right to be informed, in writing and within a period of three months from the date the complaint was lodged, of the action taken or decision made regarding the complaint.

(5) Where a health facility fails to resolve a complaint to the satisfaction of the complainant, the Department shall take necessary action.
Public Private Partnership

47. Notwithstanding the provisions of this Act and any other law relating to public-private partnerships, the Department may enter into partnerships for the purposes of health service provision in the county.

PART IV — HEALTH CARE FINANCING

Opening of a Centralized Bank Account

48. (1) The County Treasury shall subject to section 119 of the Public Finance Management Act and Regulation 82 of the Public Finance Management (County Government) Regulations, 2015 grant Authority to the accounting officer to open and operate a centralized bank account for purposes of financing and managing health care in the county.

(2) The Account shall consist of such monies —

(a) as may be appropriated by the County Assembly for the direct use by the health facilities;

(b) received as contributions, gifts or grants from any lawful source;

(c) earned or received as user charges;

(d) generated from the proceeds of professional services; and

(e) generated from licences and fees from environmental health services.

(3) All funds under subsection (2) shall first be paid into the County Revenue Fund before being appropriated to the Account established in subsection (1). For avoidance of doubt, the funds received by a health facility under subsection (2) shall be wholly appropriated back to the facility.

(4) Monies allocated under subsection (2) shall be utilized solely for provision of health services and developments in the county health facilities.

(5) The Executive Member may prescribe the fees payable to a county health facility for the services rendered.

Administration of the Account

49. (1) The Account established under section 50 shall be administered by the Chief Officer Health Services.

(2) The person administering the Account shall—

(a) prepare accounts statements for each financial year;
(b) not later than three months after the end of each financial year, submit financial statements relating to that account/s to the Auditor-General; and

(c) present the financial statements to the County Assembly.

Remuneration of the Board and Committee Members

50. The board and committee members may be paid such allowances as the Executive Committee Member for Finance may determine.

Bank Account for County Health Facilities

51. For each county health facility, a bank account shall be opened and maintained at a commercial bank approved by the County Treasury.

Universal Health Coverage

52. The Department shall ensure progressive financial access to universal health coverage by taking measures that include—

(a) developing mechanisms for an integrated county health insurance system including making provisions for affordable social health protection and health technology assessment;

(b) developing policies and strategies that ensure realization of universal health coverage;

(c) cost sharing mechanisms for services provided by the public health system without significantly impeding the access of a particular population groups to the system in the areas concerned; and

(d) defining in collaboration with the department responsible for finance, public financing of health care framework, including annual allocations towards reimbursing all health care providers responding to disasters and emergencies as contemplated under this Act.

PART V — GENERAL PROVISIONS

Procurement

53. The department shall be a procurement entity for the purposes of this Act.

Traditional and Alternative Medicine

54. The Department shall adopt and implement policies and programmes to guide the practice of traditional and alternative medicine in line with national health laws to include—
(a) Facilitate the mapping of traditional and alternative medicine providers and traditional birth attendants;

(b) Mechanisms for referral of patients from traditional or alternative medicine providers and traditional birth attendants to conventional health facilities;

(c) Enforcement to ensure traditional birth attendants adhere to guidelines on birth companionship and referrals; and

(d) Enforcement to ensure traditional or alternative medicine providers adhere to relevant legislation.

Offences

55. (1) A person who wilfully refuses any treatment or procedure when diagnosed with a disease or condition that is a health risk to other members of the public—

(a) shall immediately after the diagnosis be confined in the respective county health facility; and

(b) commits an offence and shall be liable upon conviction to a fine not exceeding one hundred thousand Kenya Shillings or to imprisonment for a term not exceeding one year or both.

(2) A health care provider operating in premises that have not been inspected and approved by the department commits an offence and shall be liable upon conviction a fine not exceeding one hundred thousand Kenya Shillings or to imprisonment for a term not exceeding one year or both.

(3) A health care provider operating premises without the requisite trade license commits an offence and shall be liable upon conviction to a fine not exceeding one hundred thousand Kenya Shillings or to imprisonment for a term not exceeding one year or both.

Regulations

56. The Executive Member may make Regulations for the better carrying out of the provisions of this Act.
MEMORANDUM OF REASONS AND OBJECTS

The purpose of this Bill is to provide for the promotion of health care services and the management of county health facilities and for connected purposes.

**Part I**—of the Bill provides for the definition of terms, the guiding principles and the purpose of the Act. In clause 3, the object of the Bill is to *inter alia*; give effect to section 2 **Part II**—of the Fourth Schedule to the Constitution; establish financing for the healthcare services; provide for the promotion and provision of health services; provide for the management of county health care facilities; and facilitate the realization of the highest attainable standard of health including the right to health care services and reproductive health care.

**Part II**—of the Bill deals with the management of health services through the establishment of a county department for health whose overall function would be to ensure the provision of health services in the county in line with the national health policy guidelines for setting up county health system and shall in all matters be answerable to the Governor and the County Assembly subject to the provisions of the Constitution and any applicable written law. This part further classifies health facilities within the county as community health services; dispensary/clinic; health centre; level four; and level five hospitals.

To effectively realise health service delivery within the county, the Bill establishes within it, various organs such as the Hospital Management Board and Health Centre and Dispensary Management Committees.

**Part III**—of the Bill deals health service delivery generally. This part, requires a county health facility to adopt a service delivery that is, of quality; effective; safe; affordable; accessible; based on continuity of care across health conditions, across different locations and over time; demand driven; integrated; personal or non personal to the targeted users when they are needed; and adequately resourced. Further, this part provides for the rights and responsibilities of both the user and health care providers. It further provides for issues of consent and confidentiality of the user.

**Part IV**—of the Bill provides for health care financing. It further provides for the sources of the funding to include appropriations from the county assembly, as well as the functions and administration of the centralized account.
Part V—of the Bill is on general provisions such as issues of procurement, offences and Regulations. The enactment of this Bill shall occasion additional expenditure of public funds which will be provided for through the annual estimates.

Dated the 27th November, 2018.

OGWENO MAENDE,
Chairperson, Health Services Committee.