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PRIMARY HEALTH CARE ACT

ARRANGEMENT OF SECTIONS

PART I – PRELIMINARY

Section

1. Short Title
2. Interpretation
3. Objects

PART II – PRIMARY HEALTH CARE SERVICES

4. Primary health care services
5. Community health care services
6. Facility health care services
7. Delivery of primary health services

PART III – PRIMARY HEALTH CARE WORKFORCE

8. Primary health care workforce
9. Recruitment of community health promoters
10. Public participation in the selection of community health promoters
11. Functions of community health promoters
12. Register of community health promoters
13. Retention of community health promoters

PART IV – ROLE OF NATIONAL GOVERNMENT
IN PRIMARY HEALTH CARE POLICY

14. Role of the ministry responsible for health.
15. Financing of primary health care functions

PART V – MANAGEMENT OF PRIMARY HEALTH CARE SERVICES

16. Role of county governments
17. County primary health care advisory committee
18. Primary health care networks
19. Primary health care network committee
20. Community Health Units
21. Community Health Committee

PART VI – MISCELLANEOUS PROVISIONS

22. Transitional provisions
 23. Offences and penalties
 24. Adherence to data protection
 25. Regulations
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NO. 13 OF 2023

PRIMARY HEALTH CARE ACT

[Date of assent: 19th October, 2023.]

[Date of commencement: 2nd November, 2023.]

AN ACT of Parliament to provide a framework for the delivery of, access to and management of primary health care; and for connected purposes.

[Act No. 13 of 2023.]

PART I – PRELIMINARY

1. Short Title

This Act may be cited as the Primary Health Care Act, 2023.

2. Interpretation

In this Act—

"Cabinet Secretary" means the Cabinet Secretary responsible for matters relating to health;

"care coordination" means a proactive approach that brings professionals and providers together to address the needs of service users to ensure they receive integrated and person-centered care across various settings;

"county executive committee member" means the county executive committee member responsible for matters relating to health;

"community" means a specific group of people, usually living in a defined geographical area, who share common values and norms, and are arranged in a social structure according to relationships which the community has collectively developed over a period of time;

"community health committee" means the functional structure overseeing the operations of a community health unit;

"community health officer" means a trained health professional who is assigned to supervise the community health promoters under their community health unit;

"community health care services" means the services specified under section 5;

"community health promoter" means a member of the community who is selected and appointed in accordance with section 9 of this Act or a community health volunteer or a community health worker who is deemed to be a community health promoter under section 22(3) of this Act and is trained to provide community health services to defined households;

"community health unit" means a group of households not exceeding one thousand within a defined geographical area and formally recognized as level one in the health system for community health service delivery;

"health care professional" has the same meaning assigned to it under section 2 of the Health Act (No. 21 of 2017);

"health care provider" has the meaning assigned to it under section 2 of the Health Act (No. 21 of 2017);

"health facility" has the same meaning assigned to it under section 2 of the Health Act (No. 21 of 2017);

"hospital" includes health facilities at levels four, five and six respectively;

"household" means a social unit which shares the same socio-economic needs associated with consumption and production;

"primary health care" means essential health care based on practical, scientifically sound and socially acceptable methods and technology that is made universally accessible to individuals and families in the community at every stage of their development, through their full participation and at an affordable cost to the community and country, in the spirit of self-reliance and self-determination;

"primary health care workforce" includes health care providers and community health promoter;

"Primary Health Care Network" means an administrative health region comprising of a hub and spokes established to deliver access to primary health care services for patients, as well as to coordinate with other hospitals in order to improve the overall operational efficiency of the network;

"hub" means a primary health care referral facility which should be a level four facility;

"spokes" means level three and two health facilities and the community health units;

"multi-disciplinary team" means a team of health care professionals with diverse expertise and skills who jointly assess, plan and manage health care that matches patients' needs and those of the catchment population to improve health outcomes;

"Universal Health Coverage" means that all individuals and communities receive the health services they need including the full spectrum of essential, quality health services from health promotion to prevention, treatment, rehabilitation, and palliative care without suffering financial hardship; and

"vulnerable groups" means vulnerable groups as defined under Article 21 of the Constitution.

3. Objects

The objects of this Act is to—

- (a) promote and fulfill the rights of all persons in Kenya towards the progressive realization of their right to the highest attainable standards of health care;
- (b) promote the implementation of primary health care through a systemic approach and clear delineation of roles of all stakeholders towards realization of universal health coverage;
- (c) provide for the establishment of primary health care networks, community health units and other stakeholder centered engagement forums for sustainable provision of primary health care services;

- (d) provide for the role of the multi-disciplinary team in the provision of primary health care services; and
- (e) provide for the role of community health officers, community health assistants and community health promoters in the provision of community based primary health care services.

PART II – PRIMARY HEALTH CARE SERVICES

4. Primary health care services

(1) Primary health care services shall be accessed at the community or at a health facility in accordance with this Act and any other written law.

(2) The services referred to in subsection (1) shall include health promotion, prevention, curative, rehabilitation and palliative services.

5. Community health care services

(1) Community health care services commence at the household.

(2) The Community health care services referred to in subsection (1) include—

- (a) health education and promotion;
- (b) disease prevention and control to reduce morbidity, disability and mortality;
- (c) family health services in the community;
- (d) environmental health and hygiene in the community;
- (e) provision of first aid for treatment of minor illnesses and injuries;
- (f) community-based surveillance;
- (g) psychosocial support, rehabilitation, and palliative care in the community;
- (h) referrals; and
- (i) management of health data in the community.

6. Facility health care services

(1) Facility health care services commence at the health facilities.

(2) The facility health care services referred to in subsection (1) include—

- (a) promotive;
- (b) preventive;
- (c) curative;
- (d) rehabilitative; and
- (e) palliative.

7. Delivery of primary health services

Each county government shall facilitate the service delivery of primary health care by—

- (a) adopting supportive and innovative modern approaches for disease identification, monitoring, surveillance, early warning, research, community education and information sharing;
- (b) providing community and stakeholder support to the respective primary health care facilities to facilitate optimal service provision;
- (c) enhancing the availability of quality services, accessibility and predictability of standardized primary health care services through

effective leadership and governance, resourcing, private public partnerships, sharing of essential health products and technologies and integrated health information systems;

- (d) ensuring that there is continuous community engagement, training and registration of households within community health units in each primary health care network; and
- (e) guaranteeing that primary health care services are optimally financed and resourced to offer quality care to all patients and residents in the republic of Kenya.

PART III – PRIMARY HEALTH CARE WORKFORCE

8. Primary health care workforce

(1) Primary health care workforce includes—

- (a) community health promoters appointed in accordance with this Act; and
- (b) health care providers.

(2) Each county government shall take all necessary measures to build the capacity of community health promoters for the proper and efficient implementation of this Act.

9. Recruitment of community health promoters

(1) A community health promoter shall be selected by the community through a public participation forum and appointed by the county government.

(2) A person qualifies for selection and appointment as a community health promoter under subsection (1) if the person—

- (a) is a citizen of Kenya;
- (b) is above the age of 18 and is of sound mind;
- (c) is a responsible and respected member of the community;
- (d) understands the role of a community health promoter;
- (e) is a resident of the respective community for a continuous period of not less than five years prior to the appointment date;
- (f) is literate and can read and write in at least one of the national languages and the local language; and
- (g) is not disqualified for appointment to office by the above criteria or by any other law.

(3) A community health promoter shall be appointed on such terms and conditions as the respective county public service board shall determine.

(4) Each county executive committee member shall prescribe, in the county legislation and regulations approved by the respective county assembly for the conduct of the public participation forum under subsection (1).

10. Public participation in the selection of community health promoters

(1) In conducting the public participation forum under section 9, the county executive committee member shall—

- (a) publish and publicize, through the mechanisms established by a county government under section 95(1) of the County Governments Act (No. 17 of 2012), a notice of the proposed selection process, at least seven days before the conduct of the process;

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- (b) avail to the residents of the county, information regarding the—
 - (i) agenda with respect to the selection process and any other issue connected to the selection process;
 - (ii) criteria for selection as a community health promoter;
 - (iii) the process of submitting their nomination for selection; and
 - (iv) such other information as the committee member may consider necessary for the effective participation and conduct of the selection process;
 - (c) ensure that the information circulated under paragraph (b) is provided in format that is simple to understand and is also available in the prevailing local language;
 - (d) take measures to ensure the participation of all persons required to participate in the process including persons with disabilities and marginalized communities within the county;
 - (e) provide, where necessary, interpretation services for persons who are not conversant with the national language, where the national language is the principle language of communication during the conduct of the public participation forum;
 - (f) keep and maintain an attendance register of all persons attending the selection process;
 - (g) ensure that all persons attending the public participation forum signify their attendance by signing the attendance register;
 - (h) keep a record of the minutes of the selection process; and
 - (i) publicise the decision regarding the persons selected during the public participation forum through the mechanism established under section 95(1) of the County Governments Act (No. 17 of 2012).
- (2) The conduct of public participation forum shall be guided by the following principles—
- (a) principles of citizen participation in counties under section 87 of the County Governments Act (No. 17 of 2012);
 - (b) provision of effective mechanisms for the involvement of the public including special interest groups who would be affected by or be interested in a decision;
 - (c) participants' equitable access to the information they need to participate in a meaningful manner;
 - (d) establishment of an appropriate feedback mechanism;
 - (e) adherence to the national values under Article 10 of the Constitution;
 - (f) adherence to the principles of public participation as may be prescribed by any written law; and
 - (g) ensuring that the needs and interests of all persons participating in the process are taken into account.
- (3) The county executive committee member shall prescribe, in county legislation, provisions regarding—
- (a) the quorum required for the holding of the public participation which shall not be less than seventy adult residents within the respective county;
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- (b) the keeping of records prepared with respect to a public participation forum conducted under this Act;
- (c) the process of the conduct of the selection process including the voting, decision making, quorum and recording of information with respect to the process; and
- (d) such other guidelines as may be necessary for the effective conduct of the public participation forum.

11. Functions of community health promoters

(1) A community health officer shall assign to each community health promoter households in such localities in such a manner as shall be prescribed by the county for the purpose of facilitating access to and ensuring the effective delivery of community health services at the community.

(2) In the performance of the functions under subsection (1), a community health promoter shall—

- (a) sensitize the community on the importance of healthy lifestyles and of quality health services;
- (b) provide community disease surveillance by reporting early signs of imminent health disasters or emergencies;
- (c) enroll and monitor the health status of members of the households assigned to the community health promoter;
- (d) keep and maintain a record of members in all households assigned to the community health promoter;
- (e) monitor the rehabilitation and integration of persons who require such services in the community;
- (f) provide appropriate health advice to an assigned household in a language that the members of the household understand, including advice on—
 - (i) appropriate sanitation and hygiene techniques including household water treatment;
 - (ii) good nutrition;
 - (iii) maternal and postnatal care including advice on breastfeeding, immunization, child health care and family planning;
 - (iv) the prevention, transmission and management of communicable diseases; and
 - (v) the prevention and management of non-communicable diseases;
- (g) render first aid services to an assigned household and where necessary, make referrals to the link facility;
- (h) monitor the growth of children under the age of five years in an assigned household;
- (i) provide support to the assigned household on quality family-based care and support for a patient;
- (j) submit reports, at such intervals as shall be determined by the county director of health, on the health of each member of an assigned household and the barriers to health and health care in the household to the community health officer;

- (k) collect information on the health status of the assigned households;
- (l) report incidence of side effects of drugs; and
- (m) perform such function as may be assigned by the county executive committee member in county legislation or under any other law.

(3) A community health promoter shall, in the conduct of the functions specified under subsection (1) and (2)—

- (a) be ethical;
- (b) inform the household of the use to which the information shall be put;
- (c) ensure confidentiality;
- (d) ensure accuracy of the information captured; and
- (e) transmit the information within the timelines specified by the county director of health.

12. Register of community health promoters

(1) Each county director of health shall keep and Register of maintain a register of all community health promoters working in the county.

(2) The county director of health may designate a community health officer within the county public service a registrar to keep and maintain the register under subsection (1).

(3) The register under subsection (1) shall include—

- (a) bio data information on community health promoters including their—
 - (i) name and identification details; and
 - (ii) contact details;
- (b) information on the link facility to which the community health promoters report;
- (c) the training database for the community health promoters;
- (d) the households assigned to each community health promoter;
- (e) all community health promoters who have been de-registered; and
- (f) such other information as the county government shall prescribe.

(4) There shall be kept and maintained, by the community health officer responsible for overseeing the delivery of community health services in each community health unit, an extract of the register under subsection (1) with respect to the community health promoters deployed to households in the respective community health unit.

(5) A community health promoter shall notify the community health officer in the respective community health unit of any changes to their particulars and the information shared with the registrar under subsection (2) within fourteen days of such change.

(6) The registrar shall, within seven days of receipt of the change in particulars under subsection (5)—

- (a) verify the information; and
- (b) update the change of particulars in the register.

13. Retention of community health promoters

Each county government shall ensure that community health promoters are adequately supported to perform their functions, including through—

- (a) training at least once a year;
- (b) provision of working tools;
- (c) stipend; and
- (d) supervision.

**PART IV – ROLE OF NATIONAL GOVERNMENT
IN PRIMARY HEALTH CARE POLICY**

14. Role of the ministry responsible for health.

(1) The Cabinet Secretary shall provide policy direction for the effective provision of primary health care services by county governments and shall, for this purpose—

- (a) formulate, develop and disseminate primary health care policies, guidelines and other relevant frameworks;
- (b) in consultation with the county governments, provide standards and guidelines to ensure equitable primary health care service delivery;
- (c) consolidate and analyze national primary health care data from the respective county primary health care advisory committee and ensure its timely transmission to stakeholders for use in decision making and resource allocation;
- (d) facilitate knowledge sharing and dissemination of best practices in the provision of primary health care services; and
- (e) provide capacity development for the effective management of primary health care across the Republic of Kenya.

(2) The National Government shall appropriate and transfer to the county revenue fund of respective county governments such monies as shall be required for the effective performance of their functions under this Act.

15. Financing of primary health care functions

(1) The National Government may, in accordance with the law relating to county governments additional allocations, provide such resources as may be necessary for the effective performance of the functions of county governments under this Act.

(2) The additional resources allocated under sub-section (1) shall be a supplement, and not a substitute, to the resources allocated by the respective county government in respect to the delivery of primary health care services in counties.

PART V – MANAGEMENT OF PRIMARY HEALTH CARE SERVICES

16. Role of county governments

Each county government shall, in the management of primary health care services—

- (a) oversee the implementation of the national policies, guidelines and standards on primary health care services;
- (b) mobilize and allocate adequate resources necessary for the delivery of primary health care services in the respective county;
- (c) allocate adequate funds and resources necessary for the facilitation of the community health promoters, including payment of stipends, within the respective county;

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- (d) develop the necessary technological infrastructure required by the primary health providers for effective delivery of primary health care services;
 - (e) put in place mechanisms to facilitate access to timely primary health care services including community and family-based care and support for patients within the respective county;
 - (f) facilitate access to information regarding appropriate healthy behavior including basic information on the prevention, promotion and treatment of communicable and communicable diseases;
 - (g) co-ordinate the implementation of training programmes for the community health-care promoters;
 - (h) provide the community health promoters with the required tools of work including kits and reporting tools; and
 - (i) undertake monitoring and evaluation through supportive supervision.

17. County primary health care advisory committee

(1) Each county government shall establish a county primary health care advisory committee.

(2) A county primary health care advisory committee shall consist of—

- (a) the county executive committee member responsible for health, who shall be the chairperson;
- (b) a representative from the county department responsible for environment;
- (c) a representative from the county department responsible for social protection;
- (d) a representative from the county department responsible for education;
- (e) a representative from the county department responsible for finance and planning;
- (f) a representative from the county department responsible for the county public service board;
- (g) a representative from the county department responsible for water and sanitation;
- (h) a representative from the county department responsible for roads;
- (i) a representative from the county department responsible for agriculture;
- (j) the county commissioner or their representative designated in writing; and
- (k) the county director of health who shall be the secretary to the committee.

(2) The committee members in subsection (1) shall be appointed in writing by the county executive committee member and shall serve for a period of three years.

(3) A county primary health care advisory committee shall, in each respective county, perform the following functions—

- (a) monitor and evaluate the implementation of primary health care;
- (b) identify and advocate for key primary health care issues with the respective county health departments;

- (c) receive, work constructively and address applicable community primary health care issues, care coordination and develop innovative ideas for service delivery;
- (d) promote communication between the health department, other stakeholders and the community;
- (e) provide beneficiary input on departmental activities, policies, plans and projects at the individual, program, organization and system levels in the county;
- (f) propose further opportunities for community engagement that will promote primary health care improvements in the county;
- (g) provide advice and input into primary health care issues;
- (h) carry out advocacy and resource mobilization;
- (i) fairly represent the views of the community;
- (j) gather the views of the community they represent through their primary health care networks;
- (k) provide feedback after meetings to members of the community; and
- (l) provide leadership and advice in relation to the beneficiary and community views on primary health care and primary health care network service delivery, planning and development in the relevant county.

18. Primary health care networks

(1) Each county executive committee member shall, subject to subsections (2) and (3) and by notice in the *Gazette*, establish a primary health care network at the sub county level.

(2) A primary health care network shall serve a catchment population as shall be determined by the county primary health care advisory committee.

(3) A primary health care network shall comprise of a hub and spokes.

(4) A primary health care network shall facilitate delivery and access to primary health care services from the community, as well as coordinate with health facilities in order to improve the overall operational efficiency of the network.

(5) Every person shall be registered as a member of a primary health care network.

19. Primary health care network committee

(1) Each primary health care network may have a committee which shall comprise of—

- (a) five representatives of the sub-county health management team, nominated by the county executive committee member;
- (b) a representative of the faith based health providers;
- (c) a representative of the private sector providers;
- (d) a representative from a community health committee;
- (e) a representative of development partners; and
- (f) the sub-county commissioner.

(2) The members of the committee shall, in the first meeting, elect a chairperson from amongst themselves.

(3) The committee members in subsection (1) shall be appointed in writing by the county executive committee member and shall serve for a period of three years.

(4) The committee shall perform the following functions—

- (a) coordinate the implementation of programmes for optimal functioning of the primary health care network;
- (b) support the primary health care network to set targets in line with agreed county targets and local health needs;
- (c) lead prioritization of service package or range of services to be offered through the primary health care network;
- (d) ensure equitable distribution of resources and health services within the primary health care network;
- (e) reference and implement human resource management plans to ensure availability and equitable distribution of health care workers and community health promoters as per level of care;
- (f) support supervision and coordination of mentorship and training activities by the multi disciplinary teams;
- (g) consolidate and analyze the Health Management Information System data including community health for completeness and validity from the primary health care network to make timely decisions at the sub-county level; and
- (h) mainstream and facilitate integration of services to optimize on available resources and avoid duplications.

20. Community Health Units

(1) Each county government shall establish and operationalize community health units.

(2) A community health unit shall serve a catchment population of up to five thousand persons in accordance with national guidelines.

(3) A community health unit shall comprise of approximately one thousand households in accordance with national guidelines.

(4) A community health unit shall, under the coordination of a community health committee, be linked to a health care facility to facilitate delivery and access to primary health care services for the community.

21. Community Health Committee

(1) Each community health unit shall have a community health committee which shall comprise of—

- (a) a representative of faith based organizations;
- (b) a representative of the community;
- (c) a representative of vulnerable groups;
- (d) a representative of the community health promoters;
- (e) any other co-opted member as per community health needs; and
- (f) the community health officer, who shall be the secretary.

(2) The members of the committee shall, in the first meeting, elect a chairperson from amongst themselves.

(3) The committee members in subsection (1) shall be appointed in writing by the county executive committee member and shall serve for a period of three years, renewable once.

(4) The functions of the community health committee shall be to—

- (a) provide leadership in the implementation of health and other related community services;
- (b) coordinate the selection of community health promoters within the community health unit in a public participation forum;
- (c) prepare and present the community health unit annual work-plans and operational plans to the link facility health committee;
- (d) plan, coordinate and conduct community dialogue and health action days;
- (e) work with the link facility to promote facility accountability to the community;
- (f) hold quarterly consultative meetings with the link facility;
- (g) create an enabling environment for implementation of community health services; and
- (h) mobilize resource for sustainability.

PART VI – MISCELLANEOUS PROVISIONS

22. Transitional provisions

(1) All rights and obligations, however arising, of the national and county government and subsisting before the effective date shall continue as rights and obligations of the national and county governments as assigned under this Act.

(2) All personnel appointed by the county public service boards and serving under each county government in respect of community health services shall be deemed to be in the service of the county government on the effective date.

(3) Despite section 9, a person appointed as a community health volunteer or community health worker at the commencement of this Act shall be deemed to be appointed as a community health promoter under this Act.

23. Offences and penalties

(1) A community health promoter shall not—

- (a) conduct any procedure that is beyond their training and approved scope of work;
- (b) administer to a person medication that is not authorized by clinical standards and guidelines under this Act or any other applicable law;
- (c) conduct deliveries for pregnant women;
- (d) negligently handle property entrusted to them;
- (e) use tools, gadgets or properties under their custody for purposes other than the delivery of community health services authorized under this Act and any other applicable law;
- (f) solicit financial or other rewards for personal gain whether or not in recognition of effort in delivering services to the community;
- (g) withdraw services as community health promoters without giving notice of intention to do so, except in a case of emergency;
- (h) falsify any records or data collected by them in course of duty;

- (i) engage in political or any other activities that may conflict with their duty; and
- (j) disclose the client's health information to unauthorized person.

(2) Any community health promoter who contravenes the provisions of this section shall be subject to disciplinary actions as prescribed by law.

24. Adherence to data protection

Every person shall, in the implementation of this Act, adhere to the provisions of the Data Protection Act (No. 24 of 2019), in the collection, processing and transmission of personal data.

25. Regulations

The Cabinet Secretary shall, in consultation with county governments, make regulations generally for the better carrying out of the provisions of this Act.
