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Bungoma County Health Services

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**THE BUNGOMA COUNTY HEALTH SERVICES
ACT, 2019**

**AN ACT of County Assembly of Bungoma 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 Bungoma as follows—

PART I— PRELIMINARY

1. This Act may be cited as the Bungoma County Health Services Act, 2019 and shall come into operation upon the date of publication in the Kenya Gazette.

Short title and commencement

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

Interpretation

"Board" means the Board of a Hospital established under Section 9;

"Chief Officer" means the Chief Officer responsible for County Health Services;

"Committee" means the Committee of a Health Centre or Dispensary established under section 11;

"County Health Management Team" means the County Health Management team established under section 32;

"County Health Sector Stakeholders Forum" means the County Health Sector Stakeholders Forum established under section 44;

"County Health Unit" for the purposes of this Act means a County Public Health Unit;

"Department" means the Department responsible for County Health services as assigned by the County Executive Committee;

"Disease" refers to any physical or mental condition that causes pain, dysfunction, distress, social problems or death to the person afflicted or similar problems for those in contact with the person;

"Executive Member" means the Member of the County Executive Committee responsible for County Health Services;

"Emergency Treatment" refers to necessary immediate health care that must be administered to prevent death or

worsening of a medical situation;

"Health Care Professional" includes any person who has obtained health professional qualifications and licensed by the relevant regulatory body;

"Health Care Provider" means a person who provides health care services and includes a health care professional;"

"Health Facility" means the whole or part of a public or private institution, building or place, whether for profit or not, that is operated or designed to provide in-patient or out-patient treatment, diagnostic or therapeutic interventions, nursing, rehabilitative, palliative, convalescent, preventive or other health service;

"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;

"Informed Consent" refers to a process of getting permission before conducting a health care prevention on a person;

"Medical Supplies" refers to and includes products or materials used in the delivery of health care services to; namely pharmaceuticals, non-pharmaceuticals, neutraceuticals, 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;

"Private Health Services" means provision of health services by a health facility that is not owned by the national or county governments and includes health care services provided by individuals, faith-based organizations and private health institutions;

"Public Health Services" means health services owned and offered by the national and county governments;

"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

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consultation, review or further management;

"Quality and Compliance Assurance Unit" means the Quality and Compliance Assurance Unit established under section 38;

"Sub County Health Management Team" means the sub county health management team established under section 33.

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—

Purpose of the Act.

- (a) promoting access to health services;
- (b) facilitating realization of the right to health care as provided for under Article 43 of the Constitution; and
- (c) facilitating realization of a clean environment and consumer health rights in accordance with Articles 42 and 46 of the Constitution.

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

Principles of Health service delivery

- (a) management of health services shall adopt a health systems approach as prescribed by World Health Organization;
- (b) health services shall be available, accessible, acceptable, affordable and of good 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.
- (e) gender and disability responsive health services.
- (f) The department shall adopt and operationalize a Public Private Partnership (PPP) approach.

PART II- HEALTH SERVICES MANAGEMENT

5. (1) There shall be established a County Executive Department responsible for health and Sanitation, which shall be in line with the 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 other

County Health System

Health Act, No. 21 of 2017 (Section 19)

applicable written law.

(2) There shall be established the office of the County Director of Health who shall be a technical advisor on all matters of Health in the County.

(3) The County Director of Health 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.

(4) A person appointed as a County 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, medicine or any other health related discipline; and
- (c) have at least five years' experience in management of health services.

(5) The County Director of health shall—

- (a) be the technical advisor on all matters relating to health within the County;
- (b) be the technical advisor to the County Chief Officer, County Health Executive Committee Member and the Governor;
- (c) supervise all health services within the County;
- (d) promote the public health and the prevention, limitation or suppression of infectious, communicable or preventable diseases within the County;
- (e) prepare and publish reports and statistical or other information relative to the public health within the County;
- (f) perform any other duties as may be assigned by the appointing authority and any other written law.

6. There Department shall be responsible for—

- (a) implementing the national health policy and standards as laid down by national government Ministry responsible for health;
- (b) service delivery, including the maintenance, financing and further development of those health

Functions of the
Department

Health Act, No. 21
of 2017 (Section 20)

services and institutions that have been devolved to it;

- (c) co-ordination of health activities in order to ensure complementary inputs, avoid duplication and provide for cross-referral, where necessary to and from institutions in other counties;
- (d) facilitating registration, licensing and accreditation of providers and health facilities respectively according to standards set nationally by the national government department responsible for health and relevant regulatory bodies;
- (e) designation of county referral hospitals according to criteria agreed upon by the intergovernmental health coordinating mechanism;
- (f) developing and implementing, in consultation with the Salaries and Remuneration Commission, such policies as may be necessary to guarantee the staffing of the public health service in marginal areas including taking into account the use of equalization fund;
- (g) procuring and managing health supplies;
- (h) maintaining standards of environmental health as laid down in applicable law;
- (i) providing access and practical support for monitoring standards compliance undertaken within the county by the national government department responsible for health, the Authority and professional regulatory bodies established under any written law;
- (j) providing access and practical support for technical assistance, monitoring and evaluation, research for health by the national and county government department responsible for health;
- (k) developing supplementary sources of income for the provision of services, in so far as these are compatible with the applicable law;
- (l) making due provision and develop criteria to compensate health care facilities for debts arising through failure to secure payment for bills for non-payment of treatment of indigent users;

- (m) reporting, according to standards established by law, on activities, development and the state of finance within the county health services;
- (n) making known to the public at all times the health facilities through which generalized or specialized services are available to them;
- (o) developing and promoting public participation in the planning and management of local health facilities so as to promote broad ownership;
- (p) ensuring and coordinating the participation of communities in the governance of health services at the county level so as to promote a participatory approach in health care governance.

7. (1) The County Chief Officer Health shall in consultation with County Executive Committee Member, write a request for establishment of an office to the County Public Service Board which shall establish offices and competitively appoint such officers.

(2) Notwithstanding subsection (1), a County Chief Officer Health may, in consultation with County Executive Committee Member Health and Sanitation, recruit such staff as are necessary on short term or part-time basis for the purposes of providing essential services.

8. (1) County health units shall be classified as follows—

- (a) County Teaching and Referral Hospital (Tertiary)
- (b) County Referral Hospital (Secondary)
- (c) County Hospital (Secondary)
- (d) Sub-County Hospital (Primary)
- (e) Health Centre;
- (f) Dispensary; and
- (g) Community Health Unit.

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

9. (1) A County Teaching and Referral Hospital, a County Referral Hospital, a County Hospital and Sub County hospitals shall be governed by a board, nominated by the residents and appointed by the Governor and shall

Staff

Classification of
County Health Units.Health Act, No. 21
of 2017

(First Schedule)

Hospital
Management Board

consist of—

- (a) a non-executive chairperson;
- (b) Sub county administrator;
- (c) the Medical Superintendent of the hospital who shall be an ex-official member and the secretary;
- (d) one officer of the department designated by the Executive Member from among members of county health management team or sub county health management team;
- (e) one person representing faith based organizations nominated by a joint forum of the organizations in the county or sub county;
- (f) one person representing non-governmental organizations providing health services in the county or sub county nominated by a joint forum of non-governmental organizations in the county or sub county;
- (g) one person representing persons with disabilities nominated by the joint forum of organizations of persons with disabilities in the county or sub county;
- (h) one person nominated by the joint forum of health professional bodies in the county or sub county, from amongst their members who are not public officers;
- (i) one person who has the knowledge or experience in finance or accounting;
- (j) one person nominated by women organizations involved in provision of health services in the county or sub county; and
- (k) One representative member appointed within the sub county by the Members of the County Assembly in the case of the Sub County Hospitals.

(2) The Hospital Management Board may invite the hospital administrative officer and hospital nursing officer to attend its meeting as the committee may deem appropriate.

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

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- (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 post-secondary certificate from a recognized institution;
- (b) has at least five years' experience in community health, development administration or management or accountancy and finance in the case of a person appointed under subsection (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), (e) (f), (g), (h) and (i) shall be three years renewable once.

(6) The Secretary shall provide secretariat services to the Committee.

10. The Hospital Management Board shall be responsible for—

Functions of the Hospital Board

- (a) providing oversight over the administration 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 estimates before submission to the Executive Member; and
- (e) carrying out any other function assigned by the Executive Member.

11. (1) A Health Centre or dispensary shall be governed by a Committee appointed by the Executive Member, consisting of—

Committee of a and dispensary.

- (a) a non-executive chairperson;
- (b) the officer in-charge of the unit, who shall be the secretary;
- (c) one person representing faith based organizations

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- (d) two persons nominated by local community members in accordance with the prescribed procedure;
 - (e) the ward administrator; and
 - (f) One person who shall have knowledge and experience in finance and administration matters.
- (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 ward.
- (3) A person shall not be eligible for appointment as a member under subsection (1) (c) (d) and (f) unless the person—
- (a) possess at least an “O” Level certificate of education
 - (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 sub section (1) (a), (c) (d) and (f) shall be three years renewable once

12. The Committee shall be responsible for—

- (a) providing guidance and oversight over the administration of the health centre or the dispensary;
- (b) promoting the development of the health centre or dispensary;
- (c) approving plans and programs for implementing County health strategies in the health centre or the dispensary;
- (d) approving annual estimates of the health centre or the dispensary before submission to the Executive Member;
- (e) carrying out any other function assigned by the

Functions of the
Committee

Executive Member in furtherance to the realization of the purpose of this Act.

13. (1) Upon commencement of this Act or whenever there is a vacancy in the Hospital Board or Health Facility Committee, the Governor in case of the Hospital Board, the County Executive Committee Member responsible for Health in case of the Health Facility Committee shall, within fourteen days of the occurrence of the vacancy, appoint a Selection Panel for the purpose of selecting suitable persons for appointment as the members of the Hospital Board or Health Facility Committee.

Selection Panel and
Criteria

(2) The Selection Panel appointed under subsection (1) shall consist of—

- (a) Selection Panel for the Health Facility Committee—
 - (i) Sub-County MOH – Chairperson
 - (ii) Member of the County Assembly – Member
 - (iii) National Government Officer (Area Chief) – Member
 - (iv) Ward Administrator – Member
 - (v) Facility in charge – Secretary
- (b) Selection Panel for the Hospital Board—
 - (i) County Executive Committee Member responsible for matters relating to Health who shall be the Chairperson to the Selection Panel;
 - (ii) County Chief Officer responsible for matters relating to Health who shall be the Secretary to the Selection Panel;
 - (iii) One person representing the County Public Service Board of either gender
 - (iv) One person representing the public of either gender
 - (v) County Director of Health

(3) The Selection Panel shall, subject to this section, determine its own procedure, and the County Executive Committee Member responsible for Health shall provide the Panel with such facilities and such other support as the Panel may require for the discharge of its functions.

(4) The Selection Panel shall, within seven days of its

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convening, vet all the curriculum vitae of appointees to check compliance as per this Act.

(5) The Selection Panel shall within seven days of receipt of curriculum vitae under subsection (4) consider and forward the names of the selected persons to the appointing authority for appointment.

(6) The appointing authority shall, within seven days of receipt of the names forwarded under subsection (5), appoint the Members of the Boards and Committees.

(7) In rejecting an appointee or appointees, the appointing authority shall file a memorandum indicating the reason for such rejection.

(8) The Selection Panel convened under subsection (1) shall stand dissolved upon the appointment of the Members of the Board or Committee.

(9) In selecting suitable persons as members of the Board and Committees, the Selection Panel shall observe the principles of Article 10 and Chapter Six of the Constitution, gender equity, regional, ethnic and religious balance, transparency, openness and competitiveness and shall have due regard to the principle of equal opportunities for persons with disabilities.

14. The members of the Hospital Board, Health Centres and Dispensaries shall be paid such allowances as the County Executive Committee Member may provide by regulations upon the advice of the Salaries and Remuneration Commission.

Remuneration of the members of the Hospital Board and Health Centres and dispensaries

15. The conduct and regulation of the business and affairs of the Board and Committees established under section 9 and 11 shall be as set out in the first schedule.

Conduct of the affairs of the Board and Committee

16. (1) Subject to Section 9 and 11 —

Management of County Health Units

- (a) the Medical Superintendent shall be responsible for the day to day management of a hospital; and
- (b) the officer in charge of a health center or a dispensary shall be responsible for the day to day management of the health centre or dispensary.

(2) The Executive Member shall prescribe the manner of management of community health unit which shall include among others—

- (a) linkages and integration with health facilities;

- (b) supervisory mechanism; and
- (c) reporting mechanism.

(3) Boards of Hospitals and Committees of Health Centres or Dispensaries shall submit on a quarterly basis management reports to the County Chief Officer which shall include among others—

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

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

Operational
Guidelines and
Standards for
Administration of
Health Facility

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

PART III- HEALTH SERVICE DELIVERY

18. Each of the County Health Facilities shall adopt health service delivery system that is—

Requirements for
Health Service
Delivery System

- (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 time;
- (g) demand driven;
- (h) integrated;
- (i) personal or non-personal to the targeted users when they are needed;
- (j) adequately resourced;
- (k) acceptable

19. The Department shall ensure cooperation and collaboration with National Government, other County

Cooperation and
Collaboration

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Governments and non-state actors in delivery of health services.

20. (1) Every person has the right to emergency medical treatment.

Emergency
Treatment

(2) For the purposes of this section, emergency medical treatment shall include—

Health Act, No. 21
of 2017 (Section 7)

- (a) pre-hospital care;
- (b) stabilizing the health status of the individual; or
- (c) arranging for referral in cases where the health provider of first call does not have facilities or capability to stabilize the health status of the victim.

(3) Any medical institution that fails to provide emergency medical treatment while having ability to do so commits an offence and is liable upon conviction to a fine not exceeding three million shillings.

21. (1) The Rights and duties of healthcare providers shall include—

Rights and duties of
healthcare providers

- (a) not to be unfairly discriminated against on account of any of the grounds set out in Article 27(4) of the Constitution;
- (b) the right to a safe working environment that minimizes the risk of disease transmission and injury or damage to the health care personnel or to their clients, families or property;
- (c) the right to refuse to treat a user who is physically or verbally abusive or who sexually harasses him or her except in an emergency situation where no alternative health care personnel is available;
- (d) the right to apply for and accept a salaried post in the public service or the private sector.

Health Act, No. 21
of 2017 (Section 12)

(2) All healthcare providers, whether in the public or private sector, shall have the duty—

- (a) to provide health care, conscientiously and to the best of their knowledge within their scope of practice and ability, to every person entrusted to their care or seeking their support;
- (b) to provide emergency medical treatment as provided for under section 20 (2);
- (c) to inform a user of the health system, in a manner

commensurate with his or her understanding, of his or her health status: Provided that where this would be contrary to the best interests of the user, then in such cases, the requisite information should be communicated to the next of kin or guardian as the case may be.

(3) Notwithstanding the provisions of subsection (1) (a), the head of any health facility may impose conditions on the service that may be provided by a health care provider taking into account the health status of a patient.

22. A client of the health system has the duty, in the absence of any observable incapacity—

- (a) to adhere to the rules of a health facility when receiving treatment or using the health services provided by the establishment;
- (b) to adhere to the medical advice and treatment provided by the establishment;
- (c) to supply the healthcare provider with accurate information pertaining to his or her health status;
- (d) to cooperate with the healthcare provider;
- (e) to treat healthcare providers and health workers with dignity and respect;
- (f) if so requested, to sign a discharge certificate or release of liability if he or she refuses to accept or implement recommended treatment.

Duty of Clients

Health Act, No. 21
of 2017 (Section 13)

23. (1) No specified 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 his or her 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;

Consent

Health Act, No. 21
of 2017 (Section 9)

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- (d) the patient 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 deterioration of health condition 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 and who has been informed as provided for in Section 21 of this Act.

24. (1) Information concerning a patient, including information relating to his or her health status, treatment or stay in a health unit is confidential except where such information is disclosed under an order of the Court or informed consent for health research and policy planning purposes.

Confidentiality

Health Act, No. 21
of 2017 (Section 11)

(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) Any proposed disclosure of information under subsection 2 (c) shall be subject to regulations prescribed by the Executive Member from time to time

25. (1) The Department shall ensure that—

Health outcomes.

- (a) the provision of health services under this Act shall be aimed at achieving the prescribed health outcomes; and
- (b) the health and sanitation, plans, budget and implementation of the policies are developed and

implemented with the aim of achieving the prescribed health outcomes.

(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.

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

Health Promotion
Policies

- (a) promote health and well-being;
- (b) create supportive environment to enable people to live healthy lives;
- (c) address inequality and 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 and enhance partnerships.

(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 the assessment conducted under paragraph (a) and shall submit the report to the Executive Member for transmission to the County Executive Committee for consideration.

(3) The County Executive Committee shall establish an Inter-governmental and inter- departmental Committee(s) 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 Committee(s), agencies and non-state actors.

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

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Primary health care

27. (1) Community units, Dispensaries and Health Centres shall be the basic units of primary health care.

- (a) The Department shall develop and coordinate implementation of primary health care policies and programs as prescribed by the national policy.
- (b) The Executive Member shall ensure that each community unit, dispensary and health centre is resourced equitably in order to enable it provide primary health care.

28. (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 the magnitude of—

Disease
Management
Prevention and
Control

- (a) the disease burden and health conditions;
- (b) the leading health risk factors in the county and impact on various population groups;
- (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.
- (d) The health statement shall inform the process of preparing the health plan under Section 29 as well as policy, design and implementation.
- (e) The Department or a county health unit may collaborate and partner with other counties and the National Government in order to control diseases, health conditions or health risk factors.
- (f) 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.
- (g) The health risk factors described under this section shall include tobacco consumption, alcohol and drug use, unsafe sex and cardiovascular diseases among others.
- (h) The 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.

PART IV – HEALTH PLANNING AND MANAGEMENT

29. (1) In accordance with the County Governments Act, 2012, the Department shall prepare a ten-year health plan which shall provide among others for— Health plan.

- (a) investment in physical infrastructure in the county health units;
- (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 26;
- (g) strategies for community engagement and action; and

(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 Sections 106 and 107 of the County Governments Act, 2012 be the health sector plan and may be reviewed annually.

(4) The Health Plan shall upon adoption by the County Executive Committee be approved by the County Assembly.

30. (1) Each county health unit established under Section 8 shall be a planning unit. Planning Units.

- (2) Each planning unit shall—
 - (a) develop a five year strategic plan which shall be approved by the respective Board/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 (2)

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shall be in accordance with the health plan prepared under Section 29.

31. (1) The Executive Member shall upon approval by the County Executive Committee, establish specialized health units.

Specialized Units

(2) The Executive Member shall ensure that the specialized units established are equitably distributed within the County;

32. (1) There is established the County Health Management Team.

County Health
Management Team

(2) The health management team shall consist of—

- (a) The County Director of Health who shall be the Chairperson;
- (b) One Deputy Director
- (c) Heads of Divisions
- (d) The Administrative Officer of the Department who shall be the secretary

(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 units and the sub county health management teams;
- (c) exercising disciplinary measures over health personnel working in the county as may be prescribed under Sub-Section (7);
- (d) reviewing and monitoring the implementation of this Act and advising the Department on appropriate measures to be adopted for effective implementation of this Act
- (e) facilitating county health units in the Sub County to comply with the established standards in accordance with Section 17; and
- (f) carrying out any other function as may be assigned by the 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 42.

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

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

Sub County Health
Management Team

(2) The sub county health management team shall consist of—

- (a) the Sub-County Medical Officer of Health who shall be the Chairperson (MOH);
- (b) Heads of divisions
- (c) the Sub County Health Administrative Officer who shall be the secretary;

(3) The Sub County Health Management Team shall perform the delegated functions and be responsible for—

- (a) coordinating implementation of this Act other health policies in the Sub County;
- (b) providing supervision and support to the management of the County health units in the Sub County;
- (c) reviewing and monitoring the implementation of this Act;
- (d) advising the Department on appropriate measures to be adopted for effective implementation of this Act;
- (e) Exercising disciplinary measures over health personnel working in the sub county as may be prescribed under Subsection (7);
- (f) carrying out needs and capacity assessment for County Health Units in consultation with the County Health Management Team, facilitating capacity building of health personnel at the Sub County level;
- (g) facilitating County Health Units in the Sub County to comply with the established standards in accordance with Section 17; and

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

(4) The Sub County Health Management Team shall prepare and submit quarterly reports of its operations to the County Health Management Team.

(5) The 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.

(6) The Sub County Health Management Team shall meet at least once every month

34. (1) Every health care provider shall inform a client or, where the user of the information is a minor or incapacitated, inform the guardian of the—

- (a) client's health status except in circumstances where there is substantial evidence that the disclosure of the user's health status would be contrary to the best interests of the client;
- (b) range of promotive, preventive and diagnostic procedures and treatment options generally available to the client;
- (c) benefits, risks, costs and consequences generally associated with each option; and
- (d) client's right to refuse recommended medical options and explain the implications, risks, and legal consequences of such refusal.

(2) The health care provider concerned must, where possible, inform the client as contemplated in subsection (1) in a language that the client understands and in a manner which takes into account the client's level of literacy.

(3) Where the client exercises the right to refuse a treatment option, the health care provider may at its discretion require the client to confirm such refusal in a formal manner.

(4) In this section, the word "client" refers to any person who seeks or intends to seek medical care from a health care provider and the expression "health care provider" includes any health facility.

35. The Department shall ensure that appropriate,

Health Information

Health Act, No. 21
of 2017 (Section 8)Information
Dissemination

adequate and comprehensive information is disseminated being cognizant of the provisions of Article 35(1)(b) of the Constitution, which must include—

Health Act, No. 21
of 2017 (Section 10)

- (a) the types, availability and cost if any of health services;
- (b) the organization of health services;
- (c) operating schedules and timetables of visits;
- (d) procedures for access to the health services;
- (e) procedures for laying complaints;
- (f) the rights and duties of clients and health care providers under this Act and as provided for in the applicable service charters; and
- (g) management of environmental risk factors to safeguard public health.

36. (1) The Department shall establish a County Health research unit.

Research and
Development

(2) The Department shall—

- (a) Develop and implement a prioritized county health research agenda in a consultative manner
- (b) Establish structures for health research coordination including county health research unit, facility research committees among others
- (c) Ensure there is adequate investment in health research to continually inform evidence –based decisions.
- (d) Ensure effective information sharing and dissemination of research findings
- (e) Ensure research conducted and implemented in the County meets and conforms to international scientific standards of quality in its design, implementation, analysis and dissemination
- (f) Ensure an ethical code of conduct for health research in accordance with the Science, Technology and Innovation Act of 2013.

(3) The provisions of subsection (2) (c) (d) (e) and (f) shall apply to all health facilities (Public and Private), units in the Department and any other organizations, partners and academic institutions or individuals conducting health research in the County.

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

Certification of
Quality Management
System

38. (1) There is established in the Department the Quality and Compliance Assurance Unit.

Quality and
Compliance
Assurance Unit.

(2) The Quality and Compliance Assurance Unit shall be responsible for carrying out inspections and health systems audit in county health units in order to ensure compliance with established standards and quality management systems established under Section 37.

39. (1) The Executive Member shall prescribe the standards and procedures for conducting inspections and health systems audit under Section 38.

Conduct of quality
and compliance

(2) The Quality and Compliance Assurance Unit shall-

- (a) continuously carry out scheduled or non-scheduled inspections and health systems audit in county public health units;
- (b) conduct once every three years, a comprehensive health systems audit and assessment of each county health unit; and
- (c) collaborate with the county and sub county health management teams.

(3) A person in charge of a county health unit 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 39, the Quality and Compliance Assurance Unit may conduct inspections and health systems audit in private health units.

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

- (a) a report for each unit inspected or audited and submit it to the management of the unit, the county or sub county health management team; and
- (b) a report of its operations to the County Director

every six months

40. The County Chief Officer shall—

Medical Supplies.

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

41. (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.

Complaints Management.

Health Act, No. 21 of 2017 (Section 14)

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

(3) The procedures for laying of complaints shall—

- (a) be displayed by all health facilities in a manner that is visible for any person entering the establishment and the procedure must be communicated to clients on a regular basis; and
- (b) be primarily handled by the head of the relevant facility or any person designated by the facility as responsible for handling clients 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 Chief Officer shall take necessary action.

42. The Department shall prepare quarterly reports on the implementation of this Act which shall be transmitted to the County Executive Committee and the County Assembly for consideration.

Quarterly reports.

43. The Department shall, not later than three months after the end of each financial year, prepare a health status

Health status report.

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report and disseminate to the public and relevant organs

44. There is established the County Health Sector Stakeholders' Forum, which shall consist of relevant government departments, agencies and non-state actors

County Health
Sector Stakeholders
Forum

45. (1) Subject to the national policy and quality standards, and in consultation with the National Government, the County Executive Member of Health shall provide and facilitate oversight and supervision over private health units or programs operating in the county to ensure compliance with the established standards.

Supervision of
private health units
in the county.

**PART IV—FINANCIAL PROVISIONS AND
PROCUREMENT**

46. (1) There shall be established a Bungoma County Health Services Management Fund.

Health Services
Management Fund.

(2) The Fund shall consist of—

- (a) moneys allocated and appropriated to the Fund from the County Revenue Fund, from time to time, by the County Assembly;
- (b) any grants, gifts, donations, loans or other endowments given to the Fund;
- (c) monies received as user foregone fees;
- (d) income generated from the proceeds of services rendered;
- (e) moneys that may accrue to the Fund in the course of the exercise or performance of its functions; and
- (f) moneys from any other lawful source accruing to the Fund.

(2) The fund shall provide financial resources for medical supplies and equipping of Health Facilities in the County for operations and maintenance;

(3) The funds collected by a health unit under Section 8—

- (a) shall be paid into a bank account operated by the health unit for that purpose; and
- (b) shall be utilized solely for provision of health services and development in the health unit where the funds are received or generated in accordance with the annual estimates of the health unit as approved by the County Assembly.

(4) Subject to subsection (3), a County Health Unit may charge such user charges or fees for the services rendered.

(5) The Funds under this section shall be managed in accordance with the Public Finance Management Act 2012

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

Procurement.

(2) Notwithstanding subsection (1), a hospital classified as County Teaching and Referral Hospital, County Referral Hospital, County Hospital and Sub-County Hospital under section 8 shall be a procuring entity.

(3) For purposes of Sub-Sections (1) and (2), the procuring entity shall adhere to the Public Procurement and Asset Disposal Act.

PART V – GENERAL PROVISIONS

48. The County Executive Member shall upon, commencement of this Act, prepare and submit to the county executive committee and the county assembly for consideration and adoption the laws and policies stipulated under the Second Schedule.

Health laws and policies

49. The existing Members of the Hospital Management Boards and Health Facility Committees shall serve for the remainder of their term.

Transition

50. The County Executive Member may make Regulations generally for the better carrying out of the objects of this Act.

Regulations

FIRST SCHEDULE (s.15)

PROVISIONS AS TO THE CONDUCT OF BUSINESS AND AFFAIRS OF THE BOARDS AND COMMITTEES

1. (a) A Board or Committee shall meet at least once every four months.

Frequency of meetings of the a Board or Committee

(b) Every meeting of the Board of Management shall be convened by giving at least fourteen days' notice in writing to every member unless three quarters of the total members of a Board of Management otherwise agree.

(c) Notwithstanding the provisions of subsection (1),

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the chairperson of a Board or Committee may, on his own motion or upon requisition in writing by at least a half of members of the Board or Committee, convene a special meeting of the Board or Committee or at any time for the transaction of specific business.

2. (a) The quorum for the conduct of business at a meeting of a Board or Committee shall be two-thirds of the total number of members of the Board or Committee

Quorum of the Board or Committee
- (b) Subject to the provisions of subparagraph (1) no proceedings of a Board or Committee shall be invalid by reason only of a vacancy among the members thereof.
3. (a) The Chairperson shall preside at every meeting of the Board or Committee at which the chairperson is present.

Chairperson to preside over a meeting of Board or Committee
- (b) In the absence of the chairperson at any meeting, the members present shall elect one of their Member to preside, who shall, with respect to that meeting and the business transacted thereat, have all the powers of the chairperson.
4. Unless a unanimous decision is reached, a decision on any matter before a Board or Committee shall be by a majority of the votes of the members present and voting and in the case of an equality of votes, the chairman or the person presiding shall have a casting vote.

Decision of the Board or Committee
5. (a) If a member is directly or indirectly interested in any contract, proposed contract or other matter before a Board or Committee and is present at a meeting of the Board or Committee at which the contract, proposed contract or other matter is the subject of consideration, he shall, at the meeting and as soon as reasonably practicable after the commencement thereof, disclose the 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.

Conflict and disclosure of interest
- (b) A disclosure of interest made under this paragraph shall be recorded in the minutes of the meeting at which it is made.

- (c) A member of the Board or Committee who contravenes subparagraph (a), commits an offence and shall be liable upon conviction to a fine of fifty thousand shillings, or to imprisonment for a term of six months, or to both.

6. A Board or Committee of a health facility shall ratify annual estimates of revenue and expenditure for the facility under its charge.

Annual estimates

7. (a) A member of a Board or Committee may at any time resign by giving notice in writing to the County Executive Committee Member in case of a Committee and Governor in case of a Board

Resignation from the Board or Committee

- (b) A person giving notice under subsection (a) shall cease to be a member of the Board or Committee from the date specified in the notice or, if no date is specified, from the date of the receipt of the notice by the County Executive Committee Member and the Governor as the case may be.

8. (a) The appointment of a member of a Board or Committee shall be revoked and the member shall vacate office if the member—

Revocation of appointment and vacation of office

- (i) resigns in accordance with paragraph 7 of this schedule;
- (ii) becomes insolvent or has conveyed or assigned his property or has made a proposition or arrangement for the benefit of his creditors;
- (iii) is sentenced by a court of law to imprisonment for a term of six months or more;
- (iv) is incapacitated by physical or mental illness;
- (v) is un discharged bankrupt
- (vi) has been absent from three consecutive meetings of the Board or Committee without leave;
- (vii) has his appointment revoked by the appointing authority; or
- (viii) is otherwise unable or unfit to discharge his functions as a member of the Board or Committee on account of any matter in this

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Act.

- (c) Where the office of a member of a Board or Committee becomes vacant by reason other than the expiry of the period of that office, the appointing authority may, in accordance with the provisions of this Act appoint another person to replace the member through the prescribed procedures.

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

Code of conduct.

10. The Board or Committee members shall cause minutes of all resolutions and proceedings of meetings to be entered into books kept for that purpose

Minutes

SECOND SCHEDULE (s. 48)

Laws and policies to be enacted

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
10. Quality Implementation of health service

THIRD SCHEDULE (s. 8)**TECHNICAL CLASSIFICATION OF LEVELS OF HEALTHCARE DELIVERY****LEVEL 1: COMMUNITY HEALTH SERVICES**

Functions-

- (a) Facilitates individuals, households and communities to carry out appropriate healthy behaviours;
- (b) Provides agreed health services;
- (c) Recognizes signs and symptoms of conditions requiring referral;
- (d) Facilitates community diagnosis, management and referral.

Note: The In-charge is the community health extension worker.

LEVEL 2: DISPENSARY/CLINIC

Functions-

- (a) This is a health facility with no in-patient services and provides consultation and treatment for minor ailments;
- (b) Provides rehabilitative services;
- (c) Provides of preventive and promotive services.

Note: The In-charge is a nurse or clinical officer.

LEVEL 3: HEALTH CENTRE

Functions-

- (a) It provides out-patient care services;
- (b) Provides of limited emergency care;
- (c) Maternity for normal deliveries;
- (d) Provides laboratory, oral health and referral services;
- (e) Provides of preventive and promotive services; and
- (f) In-patient observations.

Note: The In-charge is the clinical officer or medical officer with at least two years managerial experience.

LEVEL 4: PRIMARY HOSPITAL

Functions-

- (a) Clinical supportive supervision to lower level facilities;

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- (b) Referral level out-patient care;
- (c) In-patient services;
- (d) Emergency obstetric care and oral health services;
- (e) Surgery on in-patient basis;
- (f) Client health education;
- (g) Provision of specialized laboratory tests;
- (h) Radiology service;
- (i) Proper case management of referral cases through the provision of four main clinical specialties (i.e internal medicine, general surgery, gynaecobstetrics and paediatrics) by general practitioners backed by appropriate technical devices;
- (j) Proper counter referral;
- (k) Provision of logistical support to the lower facilities in the catchment area;
- (l) Coordination of information flow from facilities in the catchment area.

Note: The In-charge is a registered medical practitioner with a Master's degree in a health related field.

LEVEL 5: SECONDARY HOSPITAL

Functions—

- (a) Provision of specialized services;
- (b) Training facilities for cadres of health workers who are based at the primary care level (paramedical staff);
- (c) Serves as an internship centre for all staff, up to medical officers;
- (d) Serves as a research centre, that provides research services for issues of county importance;

Note: The In-charge is a registered medical practitioner with a Masters degree in a health related field.

LEVEL 6: TERTIARY HOSPITAL

Functions -

- (a) Provides highly specialized services. These include general specialization;

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- (b) discipline specialization; and geographical/regional specialization including highly specialized healthcare for area/regional specialization;
- (c) Research centre, provides training and research services for issues of national importance.

Note:

The In-charge is a registered medical practitioner with a Masters degree in a health related field and with training and experience of over ten (10) years in senior management. Level 6 shall be National Referral Hospitals and established in every County. Facilities from Levels 2-5 can be upgraded or downgraded by the Director-General based on a set criteria.