

SPECIAL ISSUE

Kenya Gazette Supplement No. 8 (Machakos County Bills No. 5)



REPUBLIC OF KENYA

KENYA GAZETTE SUPPLEMENT

MACHAKOS COUNTY BILLS, 2023

NAIROBI, 5th September, 2023

CONTENT

Bill for Introduction into the County Assembly of Machakos—	PAGE
The Machakos County Health Services (Amendment) Bill, 2023	1

**THE MACHAKOS COUNTY HEALTH SERVICES
(AMENDMENT) BILL, 2023**

A Bill for

**AN ACT of the County Assembly of Machakos to amend the
Machakos County Health Services Act No.7 of 2023 and for
connected purposes**

ENACTED by the County Assembly of Machakos, as follows—

Short title

1. This Act may be cited as the Machakos County Health Services (Amendment) Act, 2023.

Amendment of section 2 of No. 7 of 2021

2. The Machakos County Health Services Act; in this Act referred to as “principal Act”, is amended in section 2—

- (a) by deleting the definition of “Community Health Service Provider”;
- (b) by deleting the definition of “Dispensary” and substituting therefor the following new definition—

“Dispensary” means a Level 2 health facility classified and gazetted as such under section 25 of the Health Act No. 21 of 2017;

- (c) by deleting the definition of “Service” and substituting therefor the following new definition—

“Service” wherever it is used to refer to an organ created under this Act, has the same meaning as the word “entity”;

- (d) by inserting the following new definitions in the proper alphabetical order—

“Community Health Promoter” means a person trained and engaged on a stipend by the County Government to offer on a voluntary basis, essential community health services at the community level and under the direction of a community health assistant;

“County Health Management Team” means the County Health Management Team established under section 5;

“entity” means the County Department of Health, the Sub County Health Management Team, a dispensary, a health facility, a health center, a hospital and sub-county hospital and any other public health entity declared to be a

county government entity under section 5(1) of the Public Finance Management Act, 2012;

“Level 1 health services” means a community health unit that offers essential community health services;

“Sub-county Health Management Team” means the sub-county health management team established under section 8;

Amendment of section 5 of No. 7 of 2021

3. Section 5 of the principal Act is amended—

(a) by deleting subsection (1) and substituting therefor the following new subsection—

“(1) There is established the Machakos County Health Management Team.”

(b) by deleting subsection (2) and substituting therefor the following new subsection—

“(2) The Team shall consist of—

- (a) the County Executive Committee member responsible for matters relating to Health who shall be the Chairperson;
- (b) the Chief Officer responsible for matters relating to Medical Services;
- (c) the Chief Officer responsible for matters relating to Public Health;
- (d) the Chief Officer responsible for matters relating to Health Infrastructure and Development;
- (e) the County Director responsible for matters relating to Medical Services;
- (f) the County Director responsible for matters relating to Public Health;
- (g) the County Director responsible for matters relating to Health Products and Technologies;
- (h) the County Director responsible for matters relating to Health Programmes;
- (i) the County Director responsible for matters relating to Nursing Services;

- (j) the County Director responsible for matters relating to Finance and Administration;
 - (k) the Medical Superintendent in charge of the County referral hospital to represent the medical superintendents of Level 4 and 5 hospitals;
 - (l) one sub-county medical officer of health to represent the sub-county medical officers of health who shall be appointed by the Executive Committee Member;
- (c) by deleting sub-section (3) and substituting therefor the following new sub-section--
- “(3) The Team may coopt an officer, an expert or a consultant as may be necessary to assist in the discharge of its functions.”

Amendment of section 6 of No. 7 of 2021

4. The principal Act is amended by deleting section 6 and substituting therefor the following new section—

6. The Team shall be responsible for—

- (a) co-ordinating the implementation of health-related laws and policies in the County;
- (b) providing leadership and stewardship for overall health management in the County including strategic and operational planning, monitoring and evaluation of health service delivery in the County;
- (c) collaborating with state and non-state actors at the County and with other counties on health matters;
- (d) undertaking the budget process for the Department;
- (e) contributing to the preparation of cabinet memoranda;
- (f) linking the County Department of Health with the National Ministry responsible for Health;
- (g) supervising sub county health management teams and health facility management teams;
- (h) mobilizing resources for County Health Services;
- (i) establishing functional referral systems within the County and with other counties, and between different levels of the health care system in line with the sector referral strategy;
- (j) quality and compliance assurance relating to health;

- (k) co-ordinating research activities on matters relating to health; and
- (l) carrying out any other function for the realization of the objectives of this Act and as may from time to time be assigned by the County Executive Committee Member by Regulations.

Amendment of section 8 of No. 7 of 2021

5. The principal Act is amended by deleting section 8 and substituting therefor the following new section—

8. (1) There is established for every sub county, a Sub-county Health Management Team.

(2) The Sub-county Health Management Team shall comprise of—

- (a) the Sub-county Medical Officer for Health who shall be the Chairperson;
- (b) the Sub-county Pharmacist;
- (c) the Sub-county Public Health Nurse;
- (d) the Sub-county Public Health Officer;
- (e) the Sub-county Medical Lab Technologist;
- (f) the Sub-county Clinical Officer; and
- (g) the Sub-county Health Records and Information Officer.

(3) The Sub-county Health Management Team may co-opt an officer, an expert or a consultant as may be necessary to assist in the discharge of its functions.

(4) The Sub-county Health Team shall be responsible for —

- (a) coordinating implementation of all the health laws and policies in the sub-county;
- (b) providing leadership and stewardship for overall health management in the Sub-county including strategic and operational planning, monitoring and evaluation of health service delivery in the sub-county;
- (c) collaborating with state and non-state actors at the sub-county on health services;
- (d) undertaking the health budget process for the sub-county;

- (e) linking the County Department of Health with the national ministry responsible for Health;
- (f) supervising sub-county health management teams and health facility management teams;
- (g) mobilizing resources for sub-county health services;
- (h) establishing functional referral systems within and between counties, and between the different levels of the health care system in line with the sector referral strategy;
- (i) quality and compliance assurance;
- (j) coordinating research activities on matters relating to health; and
- (k) carrying out any other function for realization of the purpose of the Act and as may from time to time be assigned by the County Executive Committee Member by Regulations.

Amendment of section 9 of No. 7 of 2021

6. Section 9 of principal Act is amended—

- (a) by inserting the following new subsection immediately after section (3)—

“(4) The Executive Committee Member may appoint an officer to act in a position where the Board is yet to appoint a person under subsection (1).”

Amendment of section 10 of No. 7 of 2021

7. The principal Act is amended by deleting section 10 and substituting therefor the following new section—

Community Health Promoters

10. (1) The Executive Committee Member shall enlist such community health promoters as may be necessary and who may provide community health services at the community level on voluntary basis.

(2) A Community Health Promoter shall be responsible for—

- (a) delivering key health messages to households as outlined in the Kenya Essential Package of Health;
- (b) registering households for health-related matters;

- (c) guiding communities on health improvement and disease prevention;
- (d) treating common ailments and minor injuries with support and guidance from Community Health Assistants including the implementation of community based maternal and newborn health, and, integrated community case management of common childhood diseases;
- (e) diagnosing and referring to a respective link facility, any illness that a community health promoter is not able to manage;
- (f) stocking the Community Health Promoter kit with supplies provided through the respective link facility or other mechanisms outlined in guidelines and strategies with support from the Community Health Assistant;
- (g) promoting care seeking behavior and compliance with treatment advice;
- (h) assessing the health situation in households and initiating dialogue with household members to undertake the necessary action for improvement;
- (i) promoting appropriate home care for the sick, supported by Community Health Assistants and link facilities;
- (j) participating in community dialogue and action days organized by Community Health Assistants;
- (k) participating in monthly feedback meetings as organized by the Community Health Assistants;
- (l) advising and responding to questions from persons from communities within a jurisdiction;
- (m) motivating members of the community to adopt health promoting practices;
- (n) organizing, mobilizing and leading village health activities;
- (o) maintaining household registers and keeping records of community health related events; and
- (p) reporting to the Community Health Assistants, activities they have been involved in and health problems they have encountered that need to be brought to the attention of higher levels.

(3) A Community Health Promoter may be paid a stipend from monies appropriated for that purpose by the County Assembly or monies from the Government, or from donors as may be prescribed by Regulations, policies or county government programmes.

Amendment of section 11 of No. 7 of 2021

8. Section 11 of the principal Act is amended—

(a) in subsection (1) by inserting the words “Level 4 and Level 5” immediately after the word “every”.

(b) by deleting subsection (2) and substituting therefor the following new subsections—

“(2) The Hospital Management Board for a Level 5 hospital shall comprise of—

(a) a chairperson and who—

(i) holds a degree from a university recognized in Kenya; and

(ii) resides in the County.

(b) the medical superintendent in charge of the hospital who shall be secretary;

(c) the Sub-county Medical Officer of Health responsible for the Sub-county in which the hospital is located;

(d) the Sub-county Administrator for the sub-county in which the hospital is located; and

(e) five persons who are outstanding members of the community each one of whom holds a diploma from an institution recognized in Kenya.

(2A) The Hospital Management Board for a Level 4 hospital shall comprise of—

(a) a chairperson and who—

(i) holds a diploma from an institution recognized in Kenya; and

(ii) resides in the sub-county in which the hospital is located.

(b) the Medical Superintendent for the hospital who shall be the Secretary;

- (c) the Sub-County Medical Officer of Health for the sub-county in which the hospital is located;
- (d) the Sub County Administrator for the sub-county in which the hospital is located; and
- (e) five persons who are outstanding members of the community each one of whom holds a diploma from an institution recognized in Kenya.

(c) deleting sub-section (3) and substituting therefor the following new subsection—

“(3) The persons appointed under subsection (2)(a) and (e) for a Level 5 hospital shall be appointed by the Governor.”

(3A) The persons under subsection (2A) (a) and (e) for a Level 4 hospital shall be appointed by the Executive Committee Member.”

(d) deleting subsection (4) and substituting therefor the following new subsection—

“(4) The functions of the Hospital Management Board shall be—

- (a) to prepare strategic plans, annual work plans and budgets;
- (b) to oversee the implementation of strategic plans, annual work plans and budgets;
- (c) to mobilize resources for the hospital;
- (d) to review quarterly and annual reports from the person in charge and approve such reports for upward submission;
- (e) to review books of accounts for the hospital; and
- (f) to undertake such other activities as are necessary for the effective management of the Hospital.

(e) in sub-section (6) by deleting the expressions “(f) and(g)”;

(f) by deleting sub-section (7).

Amendment of section 12 of No. 7 of 2021

9. Section 12 of the principal Act is amended—

- (a) by deleting subsection (2) and substituting therefor the following new subsection—

“(2) The Committee established under subsection (1) shall consist of—

- (a) a chairperson and who—
- (i) holds a diploma from an institution recognized in Kenya;
 - (ii) resides in the Ward in which the Health Center is located.
- (b) the person in charge of the Health Center and who shall be the secretary;
- (c) the Public Health Officer responsible for the Ward in which the Health Center is located;
- (d) the Ward Administrator responsible for the Ward in which the Health Center is located; and
- (e) five persons who are outstanding members of the community, each of whom—
- (i) holds a certificate from an institution recognized in Kenya.
 - (ii) resides in the Ward in which the health center is located.”

- (b) by deleting subsection (3) and substituting therefor the following new subsection—

“(3) The Executive Committee Member shall appoint persons under subsection (2)(a) and (e).”

- (c) in subsection (4), by deleting the words “Chairperson of the County Public Service Board” and substituting therefor the words “Executive Committee Member”

- (d) by deleting subsection (5) and substituting therefor the following new subsection—

“(5) The functions of the Health Center Committee shall be—

- (a) to provide oversight over the administration of the Health Center;
- (b) to promote the infrastructure development of the Health Center;

- (c) to promote equipping of the Health Center;
 - (d) to represent community interests concerning health in the Health Center;
 - (e) to propose budgets for the Health Center;
 - (f) to approve plans and programs for implementing county health strategies in the Health Center; and
 - (g) to promote innovative ways of community-based health financing including mobilizing financial resources for the Health Center.
- (e) by deleting subsection (6).

Amendment of section 13 of No. 7 of 2021

10. Section 13 of the principal Act is amended—

- (a) by deleting subsection (2) and substituting therefor the following new subsection—

“(2) The Dispensary Management Committee shall comprise of—

- (a) a chairperson who ordinarily resides in the Ward in which the Dispensary is located;
- (b) the person in charge of the Dispensary who shall be the secretary;
- (c) the Public Health Officer responsible for the Ward in which the Dispensary is located;
- (d) the Village Administrator for the village in which the Dispensary is located;
- (e) five persons who are outstanding members of the community who ordinarily reside in the Village in which the Dispensary is located.”

- (b) deleting subsection (3) and substituting therefor the following new subsections—

“(3) The persons under appointed under subsection (2)(a) and (e) shall be appointed by the Executive Committee Member.”

- (c) by deleting subsection (4) and substituting therefor the following new subsection—

“(4) The functions of the Dispensary Management Committee shall be—

- (a) to provide oversight over the administration of the Dispensary;
 - (b) to promote the infrastructure development of the Dispensary;
 - (c) to promote equipping of the Dispensary;
 - (d) to represent community interests concerning health in the Dispensary;
 - (e) to propose budgets for the Dispensary;
 - (f) to approve plans and programs for implementing county health strategies in the Dispensary;
 - (g) to promote innovative ways of community-based health financing including mobilizing financial resources for the Dispensary; and
 - (h) to undertake such other activities as are necessary for the effective management of the Dispensary;
- (d) in subsection (6) by deleting the expressions “(f) and (g)’;
- (e) by deleting subsection (7).

Amendment of section 14 of No. 7 of 2021

11. The principal Act is amended by deleting section 14.

Amendment of section 15 of No. 7 of 2021

12. Section 15 of the principal Act is amended by—

- (a) deleting paragraph (m);
- (b) deleting paragraph (n);
- (c) inserting the following new paragraphs immediately after paragraph (1)—
 - (m) oversee the management and governance of county health services;
 - (n) coordinate departmental activities in liaison with other county departments and the national government in the implementation of health policies, laws and programs;
 - (o) coordinate public and private sector health programs and systems at the county level;
 - (p) coordinate promotive, preventive, curative and rehabilitative health services;

- (q) develop of the county health policies, laws and programs;
- (r) implement of national health policies, laws and programs;
- (s) coordinate of referral services as well as health emergency preparedness and response;
- (t) facilitate registration, licensing and accreditation of county health facilities, private health facilities and premises;
- (u) ensure compliance with healthcare standards and regulations by public and private health facilities;
- (v) establish, designate and regulate cemeteries, funeral homes and crematoria;
- (w) manage human resource personnel under the Department including engaging the necessary trained personnel in coordination with the national government;
- (x) facilitating capacity building and professional development of health service personnel;
- (y) mobilize resources for the provision of health services;
- (z) set the standards on environmental health and sanitation and control of health risk factors and initiate the relevant mitigation measures in collaboration with other agencies;
- (aa) provide a conducive environment for users and health service providers;
- (bb) monitor and evaluate standards of health to guide the use of resources and implementation of health priorities;
- (cc) conduct research in collaboration with the national government, other county governments and non-state actors in the implementation of health policies, laws and programs;
- (dd) establish, develop, equip and maintain county health facilities;
- (ee) ensure compliance with norms and standards for health facilities and health services;
- (ff) procure and manage health supplies in accordance with the Public Procurement and Disposal Act and any other laws;
- (gg) promote public participation in health matters within the County;

- (hh) store data, statistics and information related to health in the County;
- (ii) establish and maintain an integrated county health information management system that feeds into the national health information system;
- (jj) be the repository for county health information, data and statistics;
- (kk) receive, collect and collate the prescribed data and information from public, faith-based organizations and private health service providers;
- (ll) ensure that data and statistics held by the Department are accessible to any member of the public or to any government agency following the appropriate means and procedures while protecting the rights and confidentiality of the clients and patients;
- (mm) in collaboration with the relevant national government agencies, ensure the provision of such essential health services including primary health care services to the population of the County; and
- (nn) perform such other functions as may be necessary for the implementation of this Act or any other written law.

Amendment of section 16 of No. 7 of 2021

13. Section 16 of the principal Act is amended by deleting the words “County Public Service Board” and substituting therefor the words “Executive Committee Member”.

Amendment of section 19 of No. 7 of 2021

14. The principal Act is amended by inserting the following new section immediately after section 18—

Rights of a User

18A. A user has the right—

- (a) to access health care;
- (b) to receive emergency treatment in any health facility;
- (c) to be informed about all of the provisions of the medical scheme and the hospital insurance policy of the user;
- (d) to choose a health care provider;

- (e) to the highest attainable quality of health care products and services;
- (f) to confidentiality concerning their health information;
- (g) to informed consent to treatment;
- (h) to information concerning their health;
- (i) to be treated with respect and dignity;
- (j) to a second medical opinion;
- (k) to complain about health services;
- (l) to insurance coverage without discrimination on the basis of age, pregnancy, disability, illness including medical disorders;
- (m) to donate organs and make any arrangements and wishes upon the demise of the user; and
- (n) to access all rights relating to provision of healthcare services.

Amendment of section 26 of No. 7 of 2021

15. The principal Act is amended by deleting section 26.

Amendment of section 29 of No. 7 of 2021

16. The principal Act is amended by deleting section 29 and substituting therefor the following new section—

29. (1) Any person may make a complaint—

- (a) where the complaint relates to a Level 2 or 3 health facility; to the person in charge of the facility;
- (b) where the complaint relates to a Level 4 or 5 health facility; to the medical superintendent in charge of the hospital.

(2) A person who is dissatisfied with the outcome under subsection 1(a) may appeal to the sub-county medical officer of health;

(3) A person who is dissatisfied with the outcome under subsection (1)(b) may appeal to the Director of Medical Services.

17. Section 30 of the principal Act is amended in subsection (1) by inserting the following new paragraphs immediately after paragraph (j) —

- (k) implementation of health promotion policies, standards and guidelines, advocacy of policies and strategies that promote and protect health;

- (l) provision of professional advice and guidance on health promotion matters;
- (m) promotion of health literacy and healthy behaviors through information, education and communication;
- (n) advocacy and fostering partnerships and collaboration to advance health promotion agenda;
- (o) assessment of the impact of health promotion on behavior change;
- (p) research on determinants of health;
- (q) generation and documentation of quantitative and qualitative data/information; and
- (r) reorientation of health services towards preventive and promotive health.

18. Section 34 of the principal Act is amended in subsection (2) by deleting the words “an Authorized Officer” and substituting therefor the words “a joint health inspector who is gazetted” appearing in the opening statement.

19. The principal Act is amended by inserting the following new section immediately after section 35—

Protection of Health Workers

35A. The County Government shall ensure that healthcare workers —

- (a) access safety and protection from risks emanating from their work places;
- (b) access adequate training in their respective fields;
- (c) are adequately remunerated and deployed;
- (d) are provided with systems to ensure that the health care workers consistently experience respect in their places of work;
- (e) access tools needed to provide to quality health care services;
- (f) have sufficient personal time during their shifts to keep nourished and hydrated; and
- (g) have access to facilities that ensure their physical and mental wellbeing by debriefing and rehabilitation of healthcare personnel.

Amendment of section 41 of No. 7 of 2021

20. Section 37 of the principal Act is amended—

- (a) by inserting the number “(1)” at the start of the section;
- (b) by inserting the following new subsections —

“(2) The Executive Committee Member shall, within one year of the commencement of this Act, prepare and submit a statement to the County Assembly detailing the magnitude of—

- (a) the disease burden and health condition; and
- (b) the leading health risk factors in the county and impact on various population groups.

(3) The statement shall inform the process of preparation and implementation of health policies, strategic plan and annual plans.

(4) The Department may partner with the national government and other county governments in order to control diseases, health conditions or health risk factors.

(5) The Executive Committee Member shall prepare necessary policies, laws and programs for controlling, reducing, or mitigating the impacts of health risk factors within twelve months of submitting the statement under subsection (1).”

Amendment of Part V of No. 7 of 2021

21. The principal Act is amended by deleting each section in PART V and substituting therefor the following new PART—

PART V—FINANCIAL PROVISIONS**Establishment of the Machakos County Health Services Fund**

42. There is established the Machakos County Health Facility Improvement Fund.

Object and purpose of the Fund

43. (1) The objects and purpose of the Fund are—

- (a) to ring fence health services resources and guarantee efficient and effective service delivery;
- (b) to enable a county entity as provided for under section 2 to collect and retain revenue paid as user fees and public health fees in order to defray costs of running the respective county entity;

- (c) to finance the operation and management costs of a county entity;
- (d) to provide readily available financial resources for optimal operations of county entities all year round;
- (e) to improve daily facility operations and promote improved access to health services to all county residents;
- (f) to increase the accessibility and predictability of finances for procurement of essential products, commodities and technologies;
- (g) to enable a county entity to budget and to utilize collected revenue in accordance with the Public Finance Management Act (2012); and
- (h) to support community level services.

Guidelines

44. (1) The Fund Administrator shall adhere to the following guidelines in operationalizing the Fund and shall ensure that —

- (a) all revenue collected from hospitals, health facilities and public health services are deposited in the bank account of the Fund;
- (b) an amount not exceeding three percent of the proceeds of the Fund are utilized for the administration of the Fund;
- (c) the remainder of the proceeds of the Fund after the deduction under paragraph (b) to be apportioned as follows—
 - (i) an amount not exceeding seventy percent forwarded back to the collecting hospital to be utilized at hospital level;
 - (ii) an amount not exceeding thirty percent is utilized at the county level;
- (d) the amount under paragraph (c) (ii) to be utilized as follows—
 - (i) to target health facilities including level 2 and level 3 facilities;

- (ii) to provide preventive health services to support community health services and supportive supervision;
- (e) one hundred percent of the proceeds of the Fund collected by level 2 and level 3 health facilities shall be retained in the said health facilities;
- (f) one hundred percent of the proceeds of the Fund collected through public health charges shall be retained for use by respective sub-county medical officer for health;
- (g) the Fund Administrator shall seek approval from the Chief Officer before incurring any expenditure from the three percent for administration of the Fund;
- (h) any unspent balances in the Fund shall be carried forward to the next fiscal year;
- (i) there shall be vigorous pursuit of National Health Insurance Fund and other health insurance reimbursements for service rendered to patients in pursuit of universal health coverage;
- (j) there shall be protection of the vulnerable persons as prescribed in the Machakos County Tax Waivers Administration Act, 2022.

Sources of money for the Fund

45. The Fund shall consist of—

- (a) monies appropriated for that purpose by the County Assembly;
- (b) monies received as user fees and charges;
- (c) monies received as capitation or reimbursement for services prescribed in the National Health Insurance Schemes Act and from any other insurance provider;
- (d) income received through licensing or user fee in relation to any function or activity under public or environmental health department;
- (e) voluntary contributions from public officers and private persons;
- (f) grants and donations from other County public entities such as the municipalities and water companies;

- (g) grants and donations from government parastatals, non-state entities, public and private companies and businesses;
- (h) in-kind donations from well-wishers such as medical equipment and supplies, pharmaceutical and non-pharmaceutical supplies and relief foods; and
- (i) such other monies as may be payable or vested in the Fund.

Establishment of the Board

46. There is established the Machakos County Health Facility Improvement Fund Board.

Membership of the Board

47. (1) The Board shall consist of—

- (a) a Chairperson; not being a public officer, appointed by the Governor;
- (b) a Chief Officer in the Health department nominated by the Executive Committee Member;
- (c) the Chief Officer in charge of the County Treasury;
- (d) the Fund Administrator designated by the County Executive Member for Finance, who shall be the secretary to the Board;
- (e) the Director Medical Services;
- (f) the Director Public Health;
- (g) the Chairperson of the Hospital Management Board, Machakos Level 5 hospital;
- (h) chairpersons of two-Level 4 Hospital Management Boards nominated by the Executive Committee Member;
- (i) one representative each from the Level 2 and 3 Health Facilities nominated by the Executive Committee Member;

Qualification for membership

48. A person qualifies to be appointed as a Chairperson under section 47 (1) (a) and as a member under section 47(1)(i) if that person—

- (i) satisfies the requirements of Chapter Six of the Constitution; and
- (ii) holds a degree from a university recognized in Kenya.

Functions of the Fund Board

48A. The Fund Board shall—

- (a) provide oversight of the administration of the monies drawn from the Fund;
- (b) mobilize resources for the Fund;
- (c) provide guidance to the Hospital Management Boards and the Health Facility Management Committees on—
 - (i) proposals on user fees where the Hospital Management Boards and the Health Facility Management Committees seek to propose new user fees or changes to the old fees structure; and
 - (ii) approval of primary health services expenditure plans;
- (d) review reports from the Hospital Management Boards and the Health Facility Management Committees for its consideration and adoption.

Fund related roles of the Sub-County Health Management Team

48B. The Sub-county Health Management Team shall, in relation to the Fund established under section 42 and with respect to funds collected from Public Health Services within the Sub-county—

- (a) prepare and present the annual work plan and budget for the Sub-county;
- (b) prepare and present the quarterly budgets for the Sub-county;
- (c) prepare monthly, quarterly and annual financial reports for the Sub-county;
- (d) monitor the performance target of the Fund;

- (e) monitor the achievement of indicators for health service delivery;
- (f) prepare and present a performance report for matters indicated under paragraphs (d) and (e) in the manner prescribed by regulations;
- (g) undertake resource mobilization for the primary health care services within the sub county;
- (h) ensure efficient and effective utilization of resource paid into the Fund;
- (i) ensure that internal audits are undertaken from time to time to mitigate financial risks;
- (j) ensure that external audits are undertaken in a manner that is timely; and
- (k) review budgets for Health Centers and Dispensaries to ensure compliance with in the manner prescribed by regulations.

Signatories of the Bank Accounts

48C. (1) The Machakos County Health Services Fund account shall be operated by one mandatory signatory with the authority of the County Executive Member and two signatories shall be required for transaction purposes.

(2) The signatories of the account shall be—

- (a) the Fund Administrator as the mandatory signatory;
- (b) the Chief Officer in charge of the County Treasury;
- (c) the County Director in charge of Public Health Services;
- (d) the health administrative officer; and
- (e) the Officer responsible for Finance in the Department.

(3) The County Level 4 and 5 Hospital accounts shall be operated by three signatories with the authority of the County Executive Committee Member.

(4) The signatories of the account shall be—

- (a) the Medical Superintendent as the mandatory signatory;

- (b) the Chief Officer in-charge of Treasury;
- (c) the County Director-Medical Services;
- (d) hospital administrative officer; and
- (e) the officer responsible for Finance at the facility.

Amendment of section 52 of No. 7 of 2021

22. Section 52 of the principal Act is amended in subsection (2) by inserting the following new paragraphs immediately after paragraph (i) —

- (j) reviewing budgets for health centers and dispensaries;
- (k) reporting the disease burden and health condition;
- (l) implementing the grievances redress mechanism and file complaints.

Insertion of new section 52A

23. The principal Act is amended by inserting the following new section immediately after section 52—

Savings and Transitional Provisions

52A. (1) Any regulations, directions or instructions that were made or issued under PART V or any legislation that is repealed by this Act and that were in force immediately before the coming into operation of this Act shall, so far as they are not inconsistent with this Act, remain in force until regulations or instructions under this Act come into force.

(2) Section 45(1) of the PART V as repealed shall remain in force on the commencement of this act and pending publication of regulations under this Act.

(3) The Second Schedule shall remain in force on the commencement of this Act and pending publication of regulations under this Act.

Amendment of the First Schedule of No. 7 of 2021

24. Paragraph 1 of the First Schedule of the principal Act is amended in subparagraph (1) by deleting the expression “Service”.

Amendment of the First Schedule of No. 7 of 2021

25. Paragraph 1 of the First Schedule of the principal Act is amended in subparagraph (2) by deleting the expression “Service”.

Amendment of the First Schedule of No. 7 of 2021

26. Paragraph 2 of the First Schedule of the principal Act is amended in subparagraph (1) by deleting the expression “Service”.

Amendment of the First Schedule of No. 7 of 2021

27. Paragraph 2 of the First Schedule of the principal Act is amended in subparagraph (3) by deleting the word “Service”.

Amendment of the First Schedule of No. 7 of 2021

28. Paragraph 4 of the First Schedule of the principal Act is amended in subparagraph (2) by deleting the expression “Service.”

MEMORANDUM OF OBJECTS AND REASONS

Clause 2 of the Bill proposes to amend section 2 of the principal Act to introduce new definitions including the County Health Management Team, the Community Level 1, and, the Community Health Promoters.

Clause 3 of the Bill proposes to amend section 5 of the principal Act to provide for establishment, management and composition of the Machakos County Health Management Team.

Clause 4 of the Bill proposes to amend section 6 of the principal Act to provide for the functions of the Machakos County Health Management Team.

Clause 5 of the Bill proposes to amend section 8 of the principal Act to provide for establishment of Sub County Health Management Teams and Hospital Management Boards.

Clause 6 of the Bill proposes to amend section 9 of the principal Act to provide for appointment of the personnel by the County Executive Committee Member for Health.

Clause 7 of the Bill proposes to amend section 10 of the principal Act to provide for Community Health Promoters and their functions.

Clause 8 of the Bill proposes to amend section 11 of the principal Act to provide for compositions and functions of the Hospital Management Boards.

Clause 9 of the Bill proposes to amend section 12 of the principal Act to provide for establishment, composition and appointment of members to the Health Center and Dispensary Management Committees.

Clause 10 of the Bill proposes to delete section 13 of the principal Act.

Clause 11 of the Bill proposes to delete section 14 of the principal Act.

Clause 12 of the Bill proposes to amend section 15 of the principal Act to expand the functions of the Health Department.

Clause 13 of the Bill proposes to amend section 16 of the principal Act to provide for allowances of the members of the Hospital Management Board, Health Center and Dispensary Management Committee.

Clause 14 of the Bill proposes to amend to insert a new section 18A to provides for the rights of a user of health services.

Clause 15 of the Bill proposes to delete section 26 of the principal Act.

Clause 16 of the Bill proposes to amend section 29 of the principal Act to regulate how a person may lodge a complaint in a medical facility.

Clause 17 of the Bill proposes to amend section 30 of the principal Act to substitute it for a new section containing provisions that enhance promotion of public health in the County.

Clause 18 of the Bill proposes to amend section 34 of the principal Act to substitute it for new section provide for inspections of private and public health facilities.

Clause 19 of the Bill proposes to insert a new section 35A of the principal to provide for the rights of a Health Care Provider.

Clause 20 of the Bill proposes to amend section 37 to align the processes relating to disease surveillance.

Clause 21 of the Bill proposes to delete and substitute PART V of the principal Act to streamline Financial Provisions.

Clause 22 of the Bill proposes to amend section 52 of the principal Act by inserting a paragraph on regulations.

Clause 23 of the Bill proposes to amend insert a new section 52A to provide for a saving and transition clause.

Clause 24 of the Bill proposes to amend the First Schedule to delete the word ‘Service’.

Clause 25 of the Bill proposes to amend the First Schedule to delete the word ‘Service’.

Clause 26 of the Bill proposes to amend the First Schedule to delete the word ‘Service’.

Clause 27 of the Bill proposes to amend the First Schedule to delete the word ‘Service’.

Clause 28 of the Bill proposes to amend the First Schedule to delete the word ‘Service’.

Statement of delegation of legislative powers

This Bill does not contain any provisions that delegate legislative powers nor does it limit any fundamental rights and freedoms.

Statement of whether the Bill concerns National Government

This Bill does not contain any provisions that affect the functions of the National Government.

Statement of whether the Bill is a money Bill

This Bill is not a money Bill and the enactment of this Bill shall not occasion additional expenditure of public funds.

Dated the 30th August, 2023.

VINCENT MUTIE,
*Chairperson, Committee on
Health and Emergency Services.*

Section 2 of No. 7 of 2021 of the Principal Act which it is proposed to amend—**Interpretation**

2. In this Act—

“Authorized Officer” has the meaning ascribed to it under the County Governments Act No. 17 of 2012;

“Chief Officer” means the Chief Officer responsible for matters relating to health and emergency services;

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

“Community Health Service Provider” means a person trained to offer essential health services at the community level and who works for pay or on a voluntary basis under the direction of a Community Health Extension Worker and includes a Community Health Volunteer;

“County Assembly” means the County Assembly of Machakos;

“County Government” means the County Government of Machakos;

“County Public Service Board” means the Machakos County Public Service Board established under section 57 of the County Governments Act, 2012;

“County Referral Hospital” means a health institution designated as such under section 20 (e) of the Health Act No. 21 of 2017;

“Department” means the county department responsible for matters relating to health and emergency services;

“Director” means the County Director of Health specified under section 19(3) of the Health Act No. 21 of 2017;

“Dispensary” means a Level 2 health facility classified as such under section 25 of the Health Act No. 21 of 2017;

“Executive Committee Member” means the County Executive Committee Member responsible for matters relating to health and emergency services;

“Fund” means the County Health Service Fund established under section 42;

“Health Care Provider” has the meaning assigned to it by section 2 of the Health Act No. 21 of 2017;

“Health Center” means a Level 3 health facility classified as such under section 25 of the Health Act No. 21 of 2017;

“Health Facility” has the meaning assigned to it by section 2 of the Health Act No. 21 of 2017;

“Hospital” means a Level 4 or Level 5 health facility classified as such under section 25 of the Health Act No. 21 of 2017;

“Service” means the Machakos County Health Service established under section 5 of this Act;

“user” means a person who receives health care services in a health facility, ambulance services or community health services.

Section 3 of No. 7 of 2021 of the principal Act which it is proposed to amend—

Objects and purpose

3. The object and purpose of this Act is to—

- (a) facilitate the progressive realization of the highest attainable standards of health care services including reproductive health care and the right to emergency medical treatment;
- (b) promote access to health care;
- (c) promote a participatory approach to health care governance;
- (d) provide for the implementation of the national health policy;
- (e) establish a county health service system which encompasses public and private institutions and health services providers at the county level;
- (f) provide for measures to be undertaken towards the attainment of universal health coverage;
- (g) to provide for the protection, respect, promotion and fulfillment of—
 - (i) health rights of all persons in the county;

- (ii) the rights of children to basic nutrition and health care services contemplated in Articles 43(1) (c) and 53(1)(c) of the Constitution;
 - (iii) the rights of vulnerable groups as defined in Article 21 of the Constitution in all matters regarding health; and
 - (iv) the right of people to live in an environment that is not harmful to their health or wellbeing;
- (h) provide for the liaison between the county government and the national government on the realization of consumer health rights in accordance with article 46 of the Constitution; and
- (i) set out the rights and duties of health care providers, health workers, health establishments and users.

Section 4 of No.7 of 2021 of the principal Act which it is proposed to amend—

Attainment of right to health.

4. (1) The County Government shall take legislative, policy, administrative and other measures to the maximum of its available resources to ensure the full realization of the right to health as guaranteed by the Constitution.

(2) In putting in place the measures in subsection (1), the County Government shall collaborate with the national government.

(3) In order to attain universal health coverage, the County Government shall put in place a health insurance scheme.

Section 5 of No. 7 of 2021 of the principal Act which it is proposed to amend—

Establishment of the Machakos County Health Service.

5. (1) There is established a Service to be known as the Machakos County Health Service.

(2) The Service shall consist of—

- (a) a Chairperson;
- (b) the Chief Executive Officer who shall be an *ex officio* member and the secretary to the Service;
- (c) the Chief Officer responsible matters relating to Health and Emergency services or a designate not below the level of a director;

- (d) the Chief Officer responsible for matters relating to Finance or a designate not below the level of a director;
- (e) the person in charge of the County Referral Hospital;
- (f) five persons who ordinarily reside in the county allocated as follows—
 - (i) three persons with experience in any health-related field;
 - (ii) one person with experience in any field related to the management of public affairs; and
 - (iii) one person with experience in public finance;
- (g) two persons representing organizations working in the health sector and who ordinarily reside in the county representing marginalized groups.

(3) The persons in subsection (2) (a), (f) and (g) shall be competitively recruited by the County Public Service Board, which shall, in appointing them—

- (a) take into account regional, ethnic and gender diversity and representation of persons with disability; and
- (b) ensure public participation by making extensive consultations with the relevant stakeholders, community leaders and members of the public.

(4) A person is qualified for appointed as the Chairperson of the Service under paragraph (2) (a) if that person has a first degree from a recognized university and a minimum of ten years' experience in the management of public affairs.

(5) A person is qualified to be appointed as a member of the Service under paragraphs (2) (f) and (g) if that person has a minimum of a diploma.

(6) The persons referred to in subsection (2) (a), (f) and (g) shall serve for a term of three years renewable for one further term.

(7) The Chairperson of the County Public Service Board shall present the names of the persons appointed under subsection 2 (a), (f) and (g) to the Assembly for approval.

(8) Any person may recommend to the Assembly for the removal from office of a member of the Service on the following grounds—

- (a) gross violation of the Constitution or other written law;
- (b) incompetence;

- (c) gross misconduct; or
- (d) bankruptcy.

Section 9 of No. 7 of 2021 of the principal Act which it is proposed to amend—

Personnel

9. (1) The County Public Service Board shall appoint such personnel as may be necessary for the delivery of health services.

(2) The personnel shall serve on such terms of service as the County Public Service Board, on the recommendation of the Commission, may determine.

(3) In performing the obligation referred to in subsection (1), the County Public Service Board shall facilitate and advance—

- (a) equitable distribution of human resources;
- (b) the provision of appropriately trained staff at all levels of the county health facilities; and
- (c) the effective and efficient utilization, functioning, management and support of a system to meet the population's health care needs; and human resources within the county health system.

Section 10 of No. 7 of 2021 of the principal Act which it is proposed to amend—

Community Health Service Providers

10. (1) Community Health Service Providers may provide the following services at the community level, either for pay or on a voluntary basis—

- (a) providing primary health care services;
- (b) guiding the communities on ways to improve their health and prevent illness by adopting proper hygiene and healthy practices;
- (c) treating common ailments and minor injuries, as first aid, with the support and guidance of the Community Health Extension Workers;
- (d) referring cases to the nearest health facilities;
- (e) promoting care seeking and compliance with treatment advice;

-
- (f) assessing the health situation of communities and initiating dialogue with household members to undertake the necessary action for improvement;
 - (g) promoting appropriate home care for the sick and community-based rehabilitation with the support of the Community Health Extension Workers;
 - (h) engaging in community health dialogue and action;
 - (i) sensitizing communities on health rights, access to health services and on health-related issues;
 - (j) being an example and model of good health behaviour;
 - (k) motivating members of the community to adopt health promoting practices;
 - (l) organizing, mobilizing and leading community health activities;
 - (m) doing basic disease surveillance and providing early warning on health-related issues;
 - (n) participating in disease prevention and control;
 - (o) maintaining community registers and keeping record of community health related events;
 - (p) creating links between health actors and the communities they serve for appropriate interventions.
- (2) The County Government shall support and promote the work of Community Health Service Providers by—
- (a) building their capacity to offer community health services;
 - (b) ensuring the issuance of certificates for any training they undergo;
 - (c) identifying and registering them;
 - (d) providing them with identification documents;
 - (e) providing them with the necessary equipment;
 - (f) providing interlinkage between the Community Health Service Providers and other actors in the health sector;
 - (g) involving them in any community health interventions;
 - (h) ensuring that their grievances are promptly heard and addressed either directly or through their representatives;

(3) The County Public Service Board shall, upon advice by the Executive Committee Member, recruit such number of Community Health Service Providers as may be necessary for the provision of community health services.

(4) The County Government shall make adequate budgetary allocation to ensure proper equipping, remuneration and the general facilitation of Community Health Service Providers.

Section 11 of No. 7 of 2021 of the principal Act which it is proposed to amend—

Hospital Boards

11. (1) There is established for every Hospital, a Board to be known as the Hospital Management Board.

(2) The Hospital Management Board shall consist of—

- (a) one person with experience in matters relating to governance, leadership, management or public policy and who shall be the chairperson;
- (b) the person in-charge of the Hospital who shall be the secretary;
- (c) the County officer responsible for matters relating to health in the sub-county in which the Hospital is situated;
- (d) the County officer responsible for matters relating to county administration in the sub-county in which the Hospital is situated;
- (e) five outstanding members of the community who ordinarily reside in the sub-county in which the Hospital is situated and who have at least five years' experience in the management of public affairs;
- (f) a representative of the Community Health Service Providers working in the sub-county in which the Hospital is situated;
- (g) two persons who ordinarily reside in the sub-county representing marginalized groups;

(3) The persons in subsection (2) (a), (e) (f) and (g) shall be competitively recruited by the County Public Service Board, which shall, in appointing them —

- (a) take into account regional, ethnic and gender diversity and representation of persons with disability; and

(b) ensure public participation by making extensive consultations with the relevant stakeholders, community leaders and members of the public.

(4) A person is qualified to be appointed as a member of the Hospital Board under paragraphs (2) (a), (e) (f) and (g) if that person has a minimum of a diploma.

(5) The Chairperson of the County Public Service Board shall present the names of the persons appointed under subsection (2) (a), (e) (f) and (g) to the Assembly for approval.

(6) The persons referred to in subsection (2) (a), (e) (f) and (g) shall serve for a term of three years renewable for one further term.

(7) Any person may recommend to the Assembly for the removal from office of a member of the Board on the following grounds—

- (a) gross violation of the Constitution or other written law;
- (b) incompetence;
- (c) gross misconduct; or
- (d) bankruptcy.

Section 12 of No. 7 of 2021 of the principal Act which it is proposed to amend—

Health Center Committees

12. (1) There is established for every Health Center a committee to be known as the Health Center Management Committee.

(2) The Health Center Management Committee shall consist of—

- (a) one person with experience in matters relating to governance, leadership, management or public policy and who shall be the chairperson;
- (b) the person in-charge of the Health Center who shall be the secretary;
- (c) the County officer responsible for matters relating to health in the Ward in which the Health Center is situated;
- (d) the County officer responsible for matters relating to county administration in the ward in which the Health Center is situated;
- (e) five outstanding members of the community who ordinarily reside in the Ward in which the Health Center is situated and

who have at least five years' experience in the management of public affairs;

- (f) a representative of the Community Health Service Providers working in the Ward in which the Health Center is situated;
- (g) two persons, being one woman and one man who ordinarily reside in the Ward in which the health center is situated representing marginalized groups;

(3) The persons in subsection (2) (a), (e) (f) and (g) shall be competitively recruited by the County Public Service Board, which shall, in appointing them—

- (a) take into account regional, ethnic and gender diversity and representation of persons with disability; and
- (b) ensure public participation by making extensive consultations with the relevant stakeholders, community leaders and members of the public.

(3) A person is qualified to be appointed as a member of the Health Center Committee under paragraphs (2) (a), (e) (f) and (g) if that person has a minimum of a diploma.

(4) The Chairperson of the County Public Service Board shall present the names of the persons appointed under subsection (2) (a), (e) (f) and (g) to the Assembly for approval.

(5) The persons referred to in subsection (2) (a), (e) (f) and (g) shall serve for a term of three years renewable for one further term.

(6) Any person may recommend to the Assembly for the removal from office of a member of the Health Center Committee on the following grounds—

- (a) gross violation of the Constitution or other written law;
- (b) incompetence;
- (c) gross misconduct; or
- (d) bankruptcy.

Section 13 of No. 7 of 2021 of the principal Act which it is proposed to amend—

Dispensary Management Committees

13. (1) There is established for every Dispensary, a committee to be known as the Dispensary Management Committee.

(2) The Dispensary Management Committee shall consist of—

- (a) one person with experience in matters relating to governance, leadership, management or public policy and who shall be the chairperson;
 - (b) the person in-charge of the Dispensary who shall be the secretary;
 - (c) the County officer responsible for matters relating to health in the Ward in which the Dispensary is situated;
 - (d) the County officer responsible for matters relating to county administration in the Ward in which the Dispensary is situated;
 - (e) five outstanding members of the community who ordinarily reside in the Ward in which the Dispensary is situated and who have experience in the management of public affairs;
 - (f) a representative of the Community Health Service Providers working in the Ward in which the Dispensary is situated;
 - (g) two persons who ordinarily reside in the Ward representing marginalized groups;
- (3) The persons in subsection (2) (a), (e), (f) and (g) shall be competitively recruited by the County Public Service Board, which shall, in appointing them—
- (a) take into account regional, ethnic and gender diversity and representation of persons with disability; and
 - (b) ensure public participation by making extensive consultations with the relevant stakeholders, community leaders and members of the public.
- (4) A person is qualified to be appointed as a member of the Dispensary Committee under paragraphs (2) (a), (e) (f) and (g) if that person has a minimum of a certificate.
- (5) The Chairperson of the County Public Service Board shall present the names of the persons appointed under subsection (2) (a), (e) (f) and (g) to the Assembly for approval.
- (6) The persons referred to in subsection (2) (a), (e) (f) and (g) shall serve for a term of three years renewable for one further term.
- (7) Any person may recommend to the Assembly for the removal from office of a member of the Dispensary Management Committee on the following grounds—
- (a) gross violation of the Constitution or other written law;
 - (b) incompetence;

- (c) gross misconduct; or
- (d) bankruptcy.

Section 14 of No. 7 of 2021 of the principal Act which it is proposed to amend—

Functions of Hospital Boards, Health Center Committees and Dispensary Management Committees

14. The Hospital Boards, Health Center Committees and Dispensary Management Committees have the following functions in the respective Hospital, Health Center or Dispensary—

- (a) oversee and provide leadership in the administration of the funds;
- (b) cause to be prepared annual work plans and budgets;
- (c) cause to be prepared, strategic plans and oversee their implementation;
- (d) mobilize resources;
- (e) oversee the opening and operation of a bank account;
- (f) receive quarterly and annual reports from the officer in charge and approve such reports for forwarding to the Service;
- (g) cause to be kept books of accounts; and
- (h) undertake such other activities as are necessary for the effective management of the Health Facility.

Section 15 of No. 7 of 2021 of the principal Act which it is proposed to amend—

Functions of the Health Department

15. In addition to the functions stated in section 20 of the Health Act No. 21 of 2017, the Department shall—

- (a) promote the progressive realization of the right to health;
- (b) implement the national health policy;
- (c) be responsible for health service delivery;
- (d) facilitate the registration, licensing and accreditation of health service providers and health facilities;
- (e) procure and manage health supplies;

- (f) facilitate and coordinate public participation in the planning, management and governance of health facilities and provision of the provision of health services.
- (g) coordinate the provision of medical and public health emergency services;
- (h) conduct research on health-related matters;
- (i) ensure the digitization and integration of health services;
- (j) ensure compliance with standards for health facilities and health services within the limits of available resources;
- (k) promote the inclusion of health services in the socio-economic development plan of the County;
- (l) determine the policies and measures necessary to protect, promote, improve and maintain the health and well-being of the population;
- (m) in collaboration with the relevant national government agencies, ensure the provision of such essential health services, including primary health care services to the population of the County; and
- (n) perform such other functions as may be necessary for the implementation of this Act or any other written law.

Section 16 of No. 7 of 2021 of the principal Act which it is proposed to amend—

Remuneration

16. The members of the Service, Hospital Boards, and Health Center and Dispensary Management Committees, shall be paid such allowances as the County Public Service Board, after consultation with the Commission, may determine.

Section 17 of No. 7 of 2021 of the principal Act which it is proposed to amend—

User to have full knowledge

17. (1) Every health care provider shall inform a user of—
- (a) the user’s health status, except in circumstances where there is substantial evidence that the disclosure of the user’s health’s status would be contrary to the best interests of the user;
 - (b) the range of diagnostic procedures and treatment options generally available to the user;

- (c) the benefits, risks, cost and consequences generally associated with each option; and
- (d) the user's right to refuse health services and explain the implications, risks, obligations of such refusal.

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

(3) Where the user exercises the right to refuse treatment, the health care provider shall require the user to confirm this in writing.

Section 18 of No. 7 of 2021 of the principal Act which it is proposed to amend—

Duties of users

18. A user has a duty to—

- (a) adhere to the rules of any health facility when receiving treatment;
- (b) adhere to medical advice given by a healthcare provider;
- (c) give to the healthcare provider accurate information concerning their health status;
- (d) respect the dignity of healthcare providers; and
- (e) generally, cooperate with healthcare providers.

Section 21 of No. 7 of 2021 of the principal Act which it is proposed to amend—

Duties of a Healthcare provider

21. A healthcare provider has the duty to—

- (a) provide healthcare to every user assigned to them to the best of their knowledge and abilities;
- (b) inform the user in a manner commensurate with the user's understanding of the—
 - (i) available diagnostic procedures and treatment options;
 - (ii) benefits, risks, costs and consequences associated with each option; and
 - (iii) user's right to refuse any treatment or procedure;
- (c) provide emergency medical treatment

Section 26 of No. 7 of 2021 of the principal Act which it is proposed to amend—

Disease Control

26. (1) The Chief Executive Officer shall, within one year of the commencement of this Act, prepare and submit to the Service a statement providing the magnitude of—

- (a) the disease burden and health condition; and
- (b) the leading health risk factors in the county and impact on various population groups.

(2) The health statement shall inform the process of preparing the health plans, policies, Strategic Plan, design and their implementation.

(3) The Department may partner with the national government and other county governments in order to control diseases, health conditions or health risk factors.

(4) The Chief Executive Officer shall, within twelve months after preparation of health statements described in sub section (1) prepare necessary policies, laws and programs for controlling, reducing, or mitigating the impacts of the health risk factors.

Section 30 of No. 7 of 2021 of the principal Act which it is proposed to amend—

Promotion of Public Health

30. (1) The County Government shall put in place measures to ensure the—

- (a) reduction of communicable diseases;
- (b) promotion of public sanitation;
- (c) provision of general health education to the public;
- (d) advancement of reproductive health care;
- (e) reduction of disease burden arising from poor environmental hygiene, sanitation, occupational exposure and environmental pollution;
- (f) reduction of morbidity and mortality of waterborne and vector borne diseases;
- (g) mitigation of health effects resulting from climate change;
- (h) control of disabilities resulting from prolonged hospitalization and neglected infections;

- (i) strengthening the capacity of the health care workers and the public in general to address or forestall transmission of diseases of national and international concern; and
- (j) improve the capacity of communities to provide solutions to public health challenges.

(2) In promoting community health, the County Government shall develop a community health strategy and engage community health extension workers and Community Health Service Providers to offer community health services.

(3) The County Government shall co-operate with the national government to ensure the training of Community Health Service Providers who are to be engaged to offer community health services.

Section 34 of No. 7 of 2021 of the principal Act which it is proposed to amend—

Inspection of health facilities

34. (1) At least once a year, the public health department shall conduct inspection on health facilities to ensure that public health standards are adhered to.

(2) An Authorized Officer may—

- (a) order for the closure of any health facility which does not conform to the set standards;
- (b) by notice, require that the owner of a health facility complies with the set standards within a specified time;
- (c) where the owner of a health facility fails to comply with the notice in paragraph (b) order for the closure of the health facility.

PART V of No. 7 of 2021 of the principal Act which it is proposed to amend—

PART V— FINANCIAL PROVISIONS

Establishment of the Fund

42. There is established a Fund to be known as the Machakos County Health Services Fund.

Purpose of the Fund

43. The object and purpose of the Fund is to—

- (a) ensure health facilities have better access to financial resources;

- (b) ensure health facilities are more responsive to medical and public health emergencies;
- (c) ensure equitable distribution of financial resources based on workload and catchment population; and
- (d) ensure the delivery of quality health care services.

Sources of funds

44. (1) The fund shall consist of—
- (a) monies appropriated by the County Assembly for that purpose;
 - (b) sums received as contributions, donations, gifts or grants;
 - (c) refunds and capitations from any institution duly paid into the Fund;
 - (d) monies paid into the Fund as users charges, fees payable or insurance payable under in this Act
 - (e) monies earned or realized from any investment of the fund;
 - (f) such monies received from national government as conditional grants or non-conditional grants for services rendered to the users in accordance with established system
 - (g) any income generated by a health facility from any project initiated by the health facility; and
 - (h) such other monies as may be payable or vested in the Fund.

User fee charges

45. (1) The user fees payable by members of the public for different health services provided by Health Facilities shall be as provided in the Second Schedule or as may be determined from time to time by the Executive Committee Member in consultation with the Service.

(2) The Executive Committee Member shall cause the user fees to be published in the *Gazette*.

(3) The Chief Officer shall cause to be opened for each Health Facility a bank account to which all user fees shall be deposited.

(4) The Health Facilities shall only provide health services to the members of the public who show proof of registration for universal health coverage or who pay the prescribed user fees.

(5) The respective Hospital Board, Health Center or Dispensary Management Committee, upon investigation and for documented reasons, wave the user fees payable by a particular person.

(6) The Executive Committee member in consultation with the Service may from time to time review the user fees.

(7) No user fees shall be levied on a person who is given emergency services in a health facility.

Use of funds

46. (1) Any monies collected in a Health Facility shall be ploughed back to the same Health Facility for utilization in accordance with this Act.

(2) With the authority of the respective Hospital Board, Health Center or Dispensary Management Committee, an Officer in charge of a Health Facility may utilize the Fund to—

- (a) purchase medical supplies;
- (b) maintain the Health Facility;
- (c) purchase basic health equipment;
- (d) pay temporary staff hired for the Department by the County Public Service Board;
- (e) improve the capacity of staff to offer health services;
- (f) pay for basic administrative expenses;
- (g) undertake research on health-related matters;
- (h) pay for public health activities geared towards the mitigation of the spread of diseases; or
- (i) undertake such other activity within the health facility, that is authorized by the Service, Hospital Board Health Centre Committee or Dispensary Management Committee.

Financial estimates

47. (1) At least three months before the commencement of each financial year the Chief Officer shall cause to be prepared, estimates of all the expenditure required for the purposes of this Act for that year, and shall present such estimates to the Service for approval.

(2) The Chief Officer shall forward the approved estimates to the County Treasury for inclusion in the budget for the county government.

Accounts and Audits

48. (1) The Service shall cause to be kept proper books of accounts of its income, expenditure, assets and liabilities.

(2) Within three months after the end of each financial year, the Chief Officer shall—

- (a) submit to the Auditor-General the accounts of the Service for the year with copies to the County Treasury, Controller of Budget and Commission on Revenue Allocation; and
- (b) Publish and publicize the financial statements.

(3) In preparing the financial statements for the Fund, the Chief Officer shall ensure that the report contains information on the financial and nonfinancial performance of the Fund.

Regulations

52. (1) The Executive Committee Member shall, in consultation with the Service make Regulations for the better carrying into effect of any provisions of this Act.

(2) Without prejudice to the generality of subsection (1), regulations under this Act may provide for—

- (a) the conduct of the business of the Service;
- (b) classification of health facilities and health service provide;
- (c) fees and charges payable;
- (d) prescribed forms;
- (e) waiver of fees;
- (f) management of epidemics, pandemics and health emergencies;
- (g) licensing of private Health Facilities;
- (h) compliance with public health standards of public places;
- (i) any other matter necessary for the implementation of this Act.

FIRST SCHEDULE of No. 7 of 2021 of the principal Act which it is *proposed to amend*—

FIRST SCHEDULE

(Section 18)

PROCEDURE OF MEETINGS

Meetings

1. (1) A meeting shall be presided over by the chairperson or in his or her absence by the vice-chairperson.

(2) The chairperson, in consultation with the secretary shall determine the place and time of Service, Hospital Board or Hospital Boards, Health Center of Dispensary Management Committee meetings.

(3) The Service, Hospital Boards, Health Center Committees of Dispensary Management Committee shall have at least four meetings in every financial year and not more than four months shall elapse between one meeting and the next.

(4) In calling for meetings, the chairperson shall give a notice of at least seven days.

Conflict of interest

2. (1) If any person has a personal or fiduciary interest in any matter before the Service, Hospital Boards, Health Center or Dispensary Management Committee, and is present at a meeting of that committee or Board at which any matter is the subject of consideration, that person shall as soon as is practicable after the commencement of the meeting, declare such interest and shall not take part in any consideration or discussion of, or vote on any question touching such matter.

(2) A disclosure of interest made under subsection (1) shall be recorded in the minutes of the meeting at which it is made.

(3) A person who contravenes subsection (1) commits an offence and shall be liable, upon conviction, to a fine not exceeding three million shillings, or to imprisonment for a term not exceeding seven years, or to both such fine and imprisonment.

(4) No member or staff of the Service Hospital Boards, Health Center Committees or Dispensary Management Committees shall transact any business or trade with the Services.

Quorum

3. Subject to subparagraph (2), the quorum of the meeting shall not be less than half of the members.

Voting

4. A matter before the Service, a Hospital Boards, Health Center Committees or Dispensary Management Committees shall be decided by simple majority.