

**THARAKA NITHI COUNTY HEALTH SERVICES AND SANITATION BILL,
2021**

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PART I – PRELIMINARY

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FIRST SCHEDULE

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HEALTH SERVICES AND SANITATION LAWS AND POLICIES

AN ACT of the County Assembly of Tharaka Nithi to provide for an efficient and effective Health Services and Sanitation System which will ensure the provision of quality, affordable, timely and accessible Health Services and Sanitation to all the citizens of Tharaka Nithi County.

ENACTED by the County Assembly of Tharaka Nithi, as follows –

PART I – PRELIMINARY

1. This Act shall be cited as the County Government of Tharaka Nithi Health Services and Sanitation Act, 2021. short title
2. In this Act, unless the context otherwise requires – Interpretation
 - "Chief Officer(s)" means the Chief officer(s) responsible for County Health Services and Sanitation;
 - "Management Committee" means the Committee of a Dispensary, Health Center, Sub-County Hospital or County Hospital as established under section 7;
 - "County Executive Committee Member" means the county executive committee member responsible for County Health Services and Sanitation;
 - "County Health Facility" means a County public Health facility responsible for either preventive, promotive, curative, rehabilitative and palliative Health Services and Sanitation;
 - "County Health Management Team" means the County Health management team established under section 11;
 - "County Health Sector Stakeholders Forum" means the County Health Sector Stakeholders Forum established under section 26;
 - "Department" means the department responsible for County Health Services and Sanitation;
 - "Food Plant" means the building or plant thereof used for or in connection with the preparation, packaging, storing, display or sale of food;
 - "Occupier" includes any person in actual occupation of land or premises without regard to the title under which he or she occupies and in case of a

premises subdivided and let to lodgers or payable by the lodgers or tenants whether on own account or as agent for any person entitled to or interested therein;

“Owner” as regards to immovable property, include any person or legal entity, other than the County, receiving the rent or profits of any lands or premises from any tenant or occupier thereof or who would receive such rent or profit if such land or premises were let whether on his or her own account or as an agent for any person, other than the County or any superintendent, overseers of managers of such lessee or licensee residing on the holding;

"Quality Assurance and Compliance Unit" means the Quality Assurance and Compliance Assurance Unit established under section 66;

“Sanitation Facility” includes a urinal, pit latrine and water closet or any other facility designated and authorized by a Public Health Officer for purposes of disposal of human urine and faeces;

"Sub-County Health Management Team" means the Sub - County Health management team established under section 13; and

“User” means a person seeking or consuming Health Services and Sanitation in Tharaka Nithi County.

“Vulnerable person” includes any person with special conditions that limit their ability to access normal health services unless the person is provided with external support or special provisions for accessing the service, such persons may include orphaned children, poor persons living with HIV, people living with physical or mental disability, among other groups.

3. The purpose of the Act is to provide for the implementation of section 2 of Part 2 of the Fourth Schedule of the Constitution and to provide a legal framework to – Purpose of the Act
- (a) Promote access to Health Services and Sanitation;
 - (b) Facilitate realization of right to Health Care as provided under Article 42 and 43 (1) (a), (b), (d) and 43 (2) of the Constitution of Kenya; and
 - (c) Facilitate realization of consumer Health rights in accordance with article 46 of the Constitution of Kenya.

4. The following principles shall guide the delivery and implementation of this Act –
- Principles of
Health and
Sanitation
Service
Provision
- (a) County Health Services and Sanitation shall conform to the National and World Health Organization standards;
 - (b) Health Services and Sanitation shall be available, accessible, acceptable, affordable and of high quality and standards;
 - (c) Health rights of individuals shall be upheld, observed, promoted and protected; and
 - (d) Health Services and Sanitation shall be provided through a well-organized Health System.

PART II – HEALTH SERVICES AND SANITATION

- Functions of the Department
5. The Department shall –

- (a) Coordinate the provision of preventive, promotive, curative, rehabilitative, palliative and other health related emergency services;
- (b) Develop Health policies, laws and programs and coordinate their implementation;
- (c) Coordinate implementation of National Health Services and Sanitation Policies and Laws at the County level;
- (d) Oversee public and private sector Health Services and Sanitation programs and systems in the County;
- (e) Ensure compliance with Standards for Health facilities and Health services and Sanitation;
- (f) Oversee the day-to-day management of Human resources for Health in the County;
- (g) Provide guidelines and operationalization of processing, management, storage and disposal of human remains
- (h) Facilitate capacity building and Professional development for Health services and Sanitation personnel;
- (i) Support and supervise the management and governance of County Health Facilities and facilitate their development;
- (j) Provide liaison with National Government in implementation of Health Services and Sanitation Policies, Laws and Programs;
- (k) Develop Policies and Laws for controlling and minimizing Health risk factors;
- (l) Promote realization of Health rights;
- (m) Ensure that the purpose of this Act and the principles of Health Services and Sanitation provided under section 4 are realized;
- (n) Carry out research and apply the findings to inform policy;

- (o) Promote collection of data, analysis, application and storage to inform Health decisions;
- (p) Scrutinize, Authorize or Deny approval of Health related Research in the County; and
- (q) Carry out any other function for realization of the purpose of this Act as may from time to time be assigned by the County Executive Committee Member.

Classification of County Health Facilities

6. (1) County Health Facilities shall be classified as follows –
- (a) County Hospital;
 - (b) Sub-County Hospital;
 - (c) Health Centre;
 - (d) Dispensary; and
 - (e) Community Health Unit.

(2) The County Executive Committee Member may, in accordance with the existing standards recommend designation of a County Hospital to be a County Referral Hospital or County Referral and Teaching Hospital

Establishment of County Health Facilities

7. (1) There Shall be –
- (a) at least one County Referral and Teaching Hospital;
 - (b) in each Sub-County, at least one Sub-County Hospital
 - (c) in each ward, at least one Health Centre and
 - (d) such number of Dispensaries and Community Health Units in each ward as may be determined by the County Health Management Team.

(2) The County Executive Committee Member shall recommend designation or re-designation of a County Health Facility as described under subsection (1).

Office of the County Director of Health and Sanitation Services

8. (1) There shall hereby be established the office of the County Director of Health Services and Sanitation.
- (2) The County Director of Health Services and Sanitation shall be recruited by the County Public Service Board through a competitive process.

(3) A person appointed under subsection (2) shall possess the following minimum requirements–

- (a) be a medical practitioner registered by the Medical Practitioners and Dentists Board;
- (b) be a holder of a Bachelor's of Medicine and Bachelor of Surgery (MB;Ch B) Degree or its equivalent from a University recognized in Kenya, a Master of Medicine Degree in any of the Medical Disciplines recognized in

Comment [21]: The establishment of these levels of health facilities will be dependent upon availability of resources

Kenya e.g. Obstetrics and Gynecology, Medicine, Surgery, paediatrics, public Health etc.;

- (c) have experience of at least six years in management of health services, three of which must be at a senior management position; and
- (d) meet the provisions of Chapter Six of the Constitution of Kenya.

Functions of the County Director of Health Services and Sanitation

9. The County Director of Health Services and Sanitation shall –
- (a) be the technical advisor to the County Executive Committee Member on all matters relating to curative, preventive and promotive health services in the health sector;
 - (b) be responsible for preventing and guarding against the introduction of infectious diseases into the County;
 - (c) promote public health and the prevention, limitation or suppression of communicable and non-communicable diseases within the County;
 - (d) promote and facilitate research and investigations in connection with prevention or treatment of human diseases;
 - (e) prepare and publish reports and statistical or other information relative to the medical and public health in the County;
 - (f) supervise all the divisions within the County Department of Health Services and Sanitation; and
 - (g) perform any other duties as may be assigned by the County Executive Committee Member and any written law.

Directorates in the Department

10. (1) The County Health Service and Sanitation Department shall be comprised of the following directorates;
- (a) Directorate of curative and rehabilitative services
 - (b) Directorate of preventive and promotive health
 - (c) Directorate of administration and support services

(2) Notwithstanding the provisions of 10 (1), the Department may establish other directorates based on the policy priority areas

County Health Management Team

11. (1) There shall be established a County Health Management Team
- (2) The County Health Management Team shall consist of–
- (a) the County Director of Health Services and Sanitation who shall be the chairperson;
 - (b) the heads of directorates;
all the heads of divisions at the County level;
the Medical Superintendent of the County Referral Hospital;
any other officer as the County Executive Committee; and
Member may designate in consultation with the County Director of Health Services and Sanitation.

Functions of the
County Health
Management
Team

12. (1) The County Health Management Team shall be responsible for –
- (a) coordinating implementation of this Act and other Health policies in the County;
 - (b) providing support supervision and support to the management of the County Health Facilities and the Sub-County Health Management Teams;
 - (c) exercising disciplinary measures over Health personnel working in the County as may be prescribed in the County or National human resource policies;
 - (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 all County Health Facilities to comply with the established standards and requirements; and
 - (f) carrying out any other function as may be assigned by the County Executive Committee Member.
- (2) The County Health Management Team shall convene at least one joint meeting with the Sub-County Health Management teams in every three consecutive months.
- (3) 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 65.
- (4) The County Executive Committee Member shall, in consultation with the County Health Management Team prescribe guidelines for governing operations of the County Health Management Team.
- (5) The County Health Management Team shall meet at least once every month

Sub-County
Health
Management
Team

13. (1) There shall be established in each Sub-County, a Sub-County Health Management Team.
- (2) The Sub-County Health Management Team shall consist of –
- (a) the Officer in-charge of the Sub-County Health Services and Sanitation, who shall be the chairperson;
 - (b) the heads of divisions at the Sub-County level;
 - (c) the medical superintendent of the Sub-County Hospital;
 - (d) any other officer as the County Executive Committee Member may designate in consultation with the County Health Management Team.

Functions of the
Sub-County
Health
Management
Team

14. The Sub-County Health Management Team shall be responsible for –

- (a) coordinating implementation of this Act and other Health policies at the Sub-County level;
- (b) providing supervision and support to the management of the County Health facilities at the Sub-County level;
- (c) reviewing and monitoring the implementation of this Act; advising the County Health Management Team on appropriate measures to be adopted for effective implementation of this Act;
- (d) recommending for disciplinary measures, over Health personnel working in the Sub-County as may be prescribed by the County or National Human Resource Policies;
- (e) carrying out needs and capacity assessment for County Health facilities based within their boundaries of operation
- (f) in consultation with the County Health management team, facilitating capacity building of Health personnel at the Sub-County level;
- (g) facilitating County Health Facilities in the Sub-County to comply with the established standards and requirements; and
- (h) carrying out any other function as may be assigned by the County Director of Health Services and Sanitation.

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

(3) The County Executive Committee Member shall in consultation with the County Health Management Team prescribe guidelines for governing operations of the Sub-County Health Management Team.

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

Hospital
Management
Committee

15. (1) A County or Sub County Hospital shall be governed by a Committee appointed by the County Executive Committee Member.

(2) The Committee of Hospital shall consist of the following membership –

- (a) a Non-Executive chairperson;
- (b) the person in charge of the Hospital who shall be an ex-officio member and secretary to the committee;

- (c) the area Sub-County Administrator;
- (d) the County Director of Health Services and Sanitation;
- (e) one person representing the faith based organizations;
- (f) the following persons, who shall be residents of the area served by the Hospital –
 - (i) one person who shall have knowledge and experience in finance or accounting matters;
 - (ii) a woman who has demonstrated leadership qualities from the community served by the Hospital; and
 - (iii) not more than two persons representing recognized community-based development organizations of whom one shall be of different gender and from special interest groups.

(2) A person shall not be eligible for appointment as a chairperson of Hospital Committee unless that person –

- (a) possesses a degree from a recognized University; and
- (b) has at least five (5) years' experience in management, leadership or administration.

(3) A person shall not be eligible for appointment as a member under section (1) (e) and(f), unless that person –

- (a) possesses at least a diploma from a recognized institution; or
- (b) has experience in management; administration; Finance in the case of a person appointed under section (1)(f) (i); or
- (c) is a resident of the County or Sub- County as the case may be.

(4) Members of the Committee of Hospital, apart from the ex-officio members, shall hold office for a period of three (3) years and may be eligible for re-appointment for one further and final term after which the members shall not be eligible for appointment to the Committee for at least a period of three years.

(5) The Committee of Hospital may form special sub-committees among themselves.

(6) The Committee of Hospital shall meet at least once every three months and shall maintain records of its deliberations.

(7) The quorum for the meeting of the Committee of Hospital shall be five of all the members including the secretary.

Functions of the
Committee of
Hospital

16. The Committee of Hospital shall be responsible for –
- (a) Providing oversight over the management of the Hospital;
 - (b) Promoting development of the Hospital;
 - (c) Providing leadership and support in implementing County health strategies in the Hospital;
 - (d) Approving budgetary allocations and expenditure proposals before submission to the Chief Officer of Health;
 - (e) Causing to be kept permanent records of all its deliberations; and
 - (f) Carrying out any other function assigned by the County Executive Committee Member in accordance of this Act.

Health Centre
Management
Committee

17. (1) A Health Centre shall be governed by a Management Committee appointed by the County Executive Member for Health Services and Sanitation.

(2) The Health Centre Management Committee shall consist of the following membership –

- (a) A Chairperson
- (b) The officer in charge of the Sub-County Health Services and Sanitation
- (c) The person in charge of the health facility, who shall be the secretary;
- (d) One person representing women
- (e) One person representing the youth
- (f) One person representing persons living with disability
- (g) One person representing religious organizations
- (h) One person representing persons from special vulnerable groups
- (i) The area Ward Administrator

(3) A person shall not be eligible for appointment as a chairperson of the Committee of a Health Centre, unless the person–

- (a) Possesses at least a diploma from an institution recognized in Kenya;
- (b) Has experience in management or administration; and
- (c) Is a resident of the area in which the Health Centre is located.

(4) The chairperson of the Committee of a Health Centre shall hold office for a period of three (3) years and shall be eligible for re-appointment for one further and final term after which he/she shall not be eligible for appointment to the Committee for at least a period of three years.

**Comment [22]: 17. HOSPITAL
MANAGEMENT TEAMS**

There is established hospital management team that will be responsible for day to day management of services in each hospital. The HMT will be headed by Med.supt. or the in charge of the hospital and the members be comprised by heads of departments in the hospital.

(5) The quorum for a Health Centre Management Committee shall be five members.

(6) The Committee shall meet at least once every three months and shall maintain records of its deliberations.

Functions of the Committee of a Health Centre

18. The Committee of a Health Centre shall be responsible for –

- (a) providing oversight over the management of the Health Centre;
- (b) Advocacy for resources mobilization and health services utilization
- (c) promoting development of the Health Centre;
- (d) providing leadership and support in implementing County health strategies in the Health Centre;
- (e) approving budgetary allocations and expenditure proposals before submission to the Chief Officer of Health;
- (f) causing to be kept permanent records of all its deliberations; and
- (g) carrying out any other function as may be assigned by the County Executive Committee Member.

Committee of Dispensary

19. (1) A Dispensary shall be governed by a Dispensary Management Committee appointed by the County Executive Committee Member for Health and Sanitation

(2) The Committee of a Dispensary shall consist of the following membership –

- (a) A Chairperson
- (b) The officer in charge of the Sub-County Health Services and Sanitation
- (c) The person in charge of the health facility, who shall be the secretary;
- (d) One person representing women
- (e) One person representing the youth
- (f) One person representing persons living with disability
- (g) One person representing religious organizations
- (h) The area Ward Administrator

(3) A person shall not be eligible for appointment as a chairperson of the Committee of a Dispensary, unless the person –

- (a) Possesses at least a diploma from an institution recognized in Kenya;
- (b) Has experience in management or administration; and
- (c) Is a resident of the area in which the Dispensary is located.
- (d) Not serving any county department of health or Ministry of health

Comment [23]:

(4) The chairperson of a committee shall hold office for a period of three years and shall be eligible for re-appointment for one further and final term after which he/she shall not be eligible for appointment to the Committee for at least a period of three years.

(5) The quorum for a Dispensary Management Committee shall be five members

(6) The Committee shall meet at least once every three months and shall maintain records of its deliberations.

Functions of the
Committee of
Dispensary

20. The Dispensary Management Committee of a Dispensary shall be responsible for–

- (a) providing oversight over the management of the Dispensary;
- (b) Advocacy for resources mobilization and health services utilization
 - (a) promoting development of the Dispensary;
 - (b) providing leadership and support in implementing County health strategies in the Dispensary;
 - (c) approving budgetary allocations and expenditure proposals before submission to the Chief Officer of health;
 - (d) causing to be kept permanent records of all its deliberations; and
 - (e) carrying out any other function assigned by the County Executive Committee Member for Health and Sanitation.

Conduct of
Business of a
Committee

21. (1) The conduct and regulation of business and affairs of the Committee established under section 15: 17 and 19 shall be as set out in the First Schedule.

(2) Except as provided in the First Schedule, the Committee established under section 15, 17 and 19 may regulate its own procedure.

Removal from
Office

22. (1) A person appointed under section 15, 17 and 19, may –

- (a) at any time resign by issuing a one month's notice in writing to the County Executive Committee Member;
- (b) be removed from office by the County Executive Committee Member on the advice of the County Health Management Team or on the following grounds –
 - (i) serious violation of the Constitution or any other Written law;
 - (ii) gross misconduct, whether in the performance of the functions of the office or otherwise;
 - (iii) physical or mental incapacity to perform the functions of office;

- (iv) has been absent from three consecutive meetings of the facility management committee without the permission of the chairperson
- (v) incompetence; or
- (vi) bankruptcy

Management of
County Health
Facilities

23. Subject to provisions of sections 15, 17 and 19 –
- (a) The Medical Superintendent shall be responsible for the day to day management of a Hospital;
 - (b) The officer in charge of the HealthCenter shall be responsible for the day to day management of the Health Centre; and
 - (c) The officer in charge of a Dispensary shall be responsible for the day to day management of the Dispensary.
 - (d) The County Executive Committee Member shall prescribe the manner in which Community Health Unit shall be managed.

Operational
guidelines and
standards for
administration of
County Health
Facility

24. (1) Subject to the national policy, standards and norms, the County Executive Committee Member shall prescribe operational policies and guidelines for management and administration of a County Health Facility.
- (2) Each County Health Facility shall, with the approval of the County Executive Committee Member, establish such professional and management teams as may be necessary for the purposes of effectively carrying out their functions.

Human
Resources for
Health

25. (1) The County Health Management Team, in consultation with the County Executive Committee Member, shall recommend to the County Public Service Board for the establishment or abolishment of offices, appointment and promotion of such staff under the Department in accordance with the County Government Act.
- (2) The Department shall take appropriate measures to continuously develop the capacity and competencies of the staff.
- (3) The Department shall progressively endeavor to conform to the National and International standards and policies for Human Resource Management.
- (4) The department shall progressively take appropriate measures to ensure adequate staffing in all levels of Health and Sanitation services provision

(5) The department shall take reasonable measures to promote an enabling and safe working environment for the County Human Resources for Health.

(6) The department shall take reasonable measures to ensure adequate budgetary allocations for staff emoluments, capacity development and regular promotions and appropriate career progression.

County Health
Sector
Stakeholders
Forum

26. (1) There shall be established a County and Sub-County Health Sector Stakeholders Forum, which shall consist of all health related stakeholders including: line County Government departments, Faith Based Organizations in the County, Non-Governmental Organizations in the County, Private Sector organizations in the County, Community representatives, Professional Bodies in the County, and all other relevant stakeholders.

(2) There shall be an Executive Oversight Committee of the County Health Sector Stakeholders whose membership shall be prescribed in the Regulations.

(3) The Executive Oversight Committee of the County Health Sector Stakeholders Forum shall be responsible for coordinating the activities of the County Health Sector Stakeholders Forum and providing liaison between the stakeholders and the Department.

(4) The County Executive Committee Member shall prescribe the conduct of the affairs and business of the County Health Sector Stakeholders Forum and the Executive Committee established under subsection (2).

(5) The County Executive Committee Member shall publish a list of all Government, Non-Governmental Organizations and other stakeholders established under sub-section (1).

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

Functions of the
County Health
Sector
Stakeholders
Forum

27. The County Health Sector Stakeholders Forum shall be responsible for –

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

- (b) advocacy for resources mobilization and health services utilization
- (c) reviewing, monitoring and evaluating the implementation of this Act, County Health policies and Health programs;
- (d) providing an avenue for joint planning and implementation of Health policies and Health programs;
- (e) facilitating a framework and structure for joint and part funding of County Health services by the Health stakeholders; and
- (f) carrying out any other function as may be assigned by the County Executive Committee Member.

PART III – RIGHTS AND DUTIES

28 A Healthcare professional whether in the public or private sector, depending on one’s area of training or specialty shall have a duty to- – Duties of
Healthcare
Workers

- (a) provide health care, to every person seeking their service;
- (b) provide emergency medical treatment as provided for under section 43(2) of the Constitution of Kenya;
- (c) inform a user of the health system, in a manner commensurate with his or her understanding–
 - (i) of his or her health status;
 - (ii) the range of available diagnostic procedures and treatment options and the availability and costs thereof;
 - (iii) the benefits, risks, costs and consequences which may be associated with each option; and
 - (iv) the right of the user to refuse any treatment or procedure

29 A Healthcare personnel shall have a right to – Rights of
Healthcare
personnel

- (a) not to be discriminated against on account of race, sex, pregnancy, marital status, health status, ethnic or social origin, skin colour, age, disability, religion, conscience, belief, culture, language or place of birth;
- (b) of 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 adequate compensation if adversely affected in line of duty shall be adequately compensated by the employer in accordance with the Occupational Safety and Health Act and Work Injury Benefits Act, among other existing legal frameworks;
- (d) the right to refuse to treat a user who is physically or verbally abusive or who sexually harasses him or;
- (e) the right to apply for and accept a salaried post in the public service or the private sector;
- (f) the right to respect from user;

- (g) And other rights stipulated in Employment and Labour Relations Act.

30 A user shall have a duty to –

Duties of a User

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

31 (1) Every person has the right to –

Rights of a User

- (a) the highest attainable standard of Health including access to promotive, preventive, curative and rehabilitative Health services;
- (b) be treated with a professional standard of care, by appropriately qualified staff in a properly approved or registered organization that meets required levels of safety and quality;
- (c) be treated with dignity, respect and have their privacy respected in accordance with the constitution and this Act; and
- (d) emergency treatment as provided in section 7 (2) of the Health Act (2017).

(2) Every vulnerable person has the right to –

- (a) the highest attainable standard of Health including access to promotive, preventive, curative and rehabilitative Health services;
- (b) the department shall take reasonable measures to facilitate vulnerable persons to have unlimited access to healthcare services including and not limited to establishment of a Healthcare fund for vulnerable persons.

32 (1) No specified health service may be provided to a patient without the patient's informed consent unless –

Informed Consent

- (a) Any person presenting to a health service provider seeking a service is deemed to have consented to receive that service. In case the health service involves invasive procedures such as surgery, the patient shall consent by appending his or her signature

on a standard consent form which indicates the nature of the procedure.

- (b) If the patient is unable to give informed consent, such consent shall be given by the next of kin, a person mandated by the patient in writing to grant consent on his or her behalf; or authorized to give such consent in terms of any law or court order;
- (c) 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;
- (d) the provision of a health service without informed consent is authorized by an applicable law or court order;
- (e) the patient is being treated in an emergency situation; or
- (f) failure to treat the user, or a group of people which includes the user, will result in a serious risk to public health; or any delay in the provision of the health service to the patient might result in his or her death or irreversible damage to his or her health and the patient has not expressly, or by implication or by conduct refused that service.

(2) A healthcare provider or a Healthcare worker 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 28 (c) of this Act.

33 (1) Information concerning a patient, including information relating to his or her Health status, treatment or stay in a Health facility is confidential except where such information is disclosed under order of court or informed consent for the purposes of Health research or Health policy. Confidentiality

(2) Subject to the Constitution and this Act, no person may disclose any information or material facts contemplated in subsection (1) unless –

- (a) the patient consents to such disclosure in writing in the prescribed form and in utmost good faith;
- (b) court order or any applicable law requires such disclosure; or
- (c) non-disclosure of the information poses a serious threat to public Health.

(3) proposed disclosure of any information Under subsection 2 (c) shall be subject to Regulations prescribed by the County Executive Committee Member in charge of Health Services and Sanitation.

34 (1) A person who is dissatisfied with a service provided by the Department or unit of the Department or a County Health Facility may lodge a complaint with the officer in charge of the Department or County Health Facility.

Complaints
Management

(2) The Department or a County Health Facility shall establish a system of receiving and addressing complaints raised pursuant to this section.

(3) An officer described under subsection (1) Shall, within fourteen days respond to the complaint lodged and take appropriate action, where possible.

(4) A person who is not satisfied with the response provided under subsection (3) may lodge the complaint with the Executive Committee Member.

(5) The County Executive Committee Member shall respond to the complaint within fourteen days and take the appropriate action, where possible.

(6) The County Health Facility shall prepare and submit a monthly report to the County Executive Committee Member on matters related to the complaints lodged under subsection (1) and the actions taken.

PART IV – HEALTH AND SANITATION SERVICES DELIVERY

35 The Department and each County Health Facility shall adopt a Health service delivery system that is –

Requirements
for Health
Service
Delivery
System

- (a) effective;
- (b) safe;
- (c) of high quality;
- (d) cost effective;
- (e) accessible;
- (f) based on continuity of care across all Health conditions, across different locations and over time;
- (g) demand driven;
- (h) integrated; and
- (i) adequately resourced.

36 (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 policies, plans, budget and implementation of the policies is done 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 National Government and the World Health Organization.

37 (1) The Department shall, in collaboration with public or private sector agencies, develop,strengthen and implement cross-sector Health promotion policies and programs that – Health Promotion

- (a) Promote Health and wellbeing;
- (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 to develop acceptable health seeking behaviours and adopt healthy lifestyles; and
- (e) Support partnerships for Health promotion.

(2) The Department shall, in each year –

- (a) Conduct an assessment of the extent to which other County policies integrate and support Health promotion; and
- (b) Prepare a report of the assessment conducted under paragraph (a) and shall submit the report to the County Executive Committee Member for transmission to the County Executive Committee for consideration.

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

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

38 (1) The County Executive Committee Member shall within one year after the commencement of this Act, prepare and submit to the County executive committee, a statement providing for – Disease
Prevention
and Control

- (a) Status of health in the County;
- (b) magnitude of the disease burden and health conditions;
- (c) the leading health risk factors in the County and impact on various population groups; and
- (d) measures or interventions being undertaken or that should be undertaken by the County government in order to reduce disease burden or risk factors or mitigate their impact.

(2) The statement shall inform the process of preparing a health plan stipulated under section 63 as well as other health policies and plans.

(3) The Department may collaborate and partner with other Counties, National Government, International players or other stakeholders in order to control diseases, Health conditions or Health risk factors.

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

(5) The health risk factors described under this section shall include but not limited to tobacco consumption, alcohol and drug abuse, poor sanitation, unsafe water, unsafe food, and unsafe sex.

(6) The County Executive Committee Member shall cause to be prepared the health-related laws and policies stipulated under the Second Schedule

39 The County Executive Committee Member shall –

- (a) in consultation with the County Health Management Team, establish a system which ensures that Medicines, Medical Supplies and Public Health Commodities are available and accessible in each County Health Facility;
- (b) ensure that the Medicines, Medical Supplies and Public Health Commodities 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 of medicines, medical supplies and public Health commodities;

Medicines,
Medical
Supplies and
Public Health
Commodities

40 (1) A Community Health Unit shall be the basic unit of Community Health Services and the recognized first level of care

Community
Health
Services

(2) There shall be established such number of Community Health Units in every administrative Ward as the Department shall determine through a regulation

(3) A Community Health Unit shall functionally be linked to the nearest Dispensary, Health Centre or Hospital.

(4) A Community Health Unit shall be run by Community Health Volunteers whose number will be determined by the Department.

(5) The selection of Community Health Volunteers shall be in conformity with the national standards, or any other guidelines as the Department may determine.

(6) A Community Health Volunteer shall be paid such allowance or compensated for out of pocket expenses as shall be determined by the Executive Committee Member in consultation with the County Health Management Team and the County Public Service Board.

(7) Notwithstanding subsection (7), a Community Health Volunteer shall be paid a monthly performance-based stipend of two thousand (Ksh. 3,000) Kenya shillings or any other amount as may be prescribed from time to time.

(8) The Executive Committee Member shall ensure that a Community Health Unit is sufficiently resourced for optimal functioning.

(9) The Department shall develop guidelines for the management of Community Health Units.

41 (1) The Department shall establish a County Health Information System that shall apply to all County Health facilities, private, faith based, NGOs and all other facilities and clinics offering health services in the county. Health Information System

(2) The Department shall –

- (a) be the repository for County Health information, data and statistics; and
- (b) collect and collate the prescribed data and information from public and private Healthcare service providers.

42 (1) The County Executive Committee Member shall designate and facilitate establishment of specialized Healthcare units in specified County Health facilities. Specialized Units

(2) Establishment of specialized units shall be informed by identified health needs and internationally recognized best practices.

(3) The County Executive Committee Member shall ensure that the specialized units are established and managed as model specialized units and centers of excellence in their respective areas of specialization.

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

43 (1) The County Executive Committee Member shall provide and facilitate oversight and supervision over private Health facilities or programs operating in the County to ensure compliance with the established standards.

Supervision
of
Private
Health Facilities

(2) A private Health Facility described under subsection (1) may either be –

- (a) faith based Health facility;
- (b) for profit Health facility; or
- (c) not for profit Health facility.

(3) Notwithstanding subsection (1), a private Health facility –

- (a) that is not licensed to operate under the relevant written law shall not be allowed to operate in the county

44 The Department shall ensure that there is effective cooperation and collaboration with National Government, Partners and other County Governments in delivery of Health and Sanitation Services.

Cooperation
and
collaboration

PART V – PROMOTION OF PUBLIC HEALTH AND SANITATION

Policy Direction 45 (1) The County Department of Health Services and Sanitation shall devise and implement measures to promote Public Health and Sanitation and counter influences with adverse effect on the health of the population including –

- (a) interventions to reduce the burden imposed by communicable, non-communicable and neglected diseases, especially among marginalized and indigent population;
- (b) interventions to promote healthy lifestyle including physical activity, counter drug abuse including alcoholic products and adulteration of such products, reduce the use of tobacco and other addictive substances and counter exposure of children and others to tobacco smoke;
- (c) notwithstanding the provisions of 45 (1) (b) above, the County Executive Committee Member shall establish a well functional substance abuse control board for the purposes of managing tobacco and substance abuse in the County; and
- (d) the promotion of supply of safe foodstuffs of sufficient quality in adequate quantities and the promotion of nutritional knowledge at all population levels.

Duty to
Safeguard
Environment

46 (1) Every person within the jurisdiction of the County is entitled to a clean and healthy environment and has a duty to safeguard and enhance a healthy sustainable environment.

(2) The Department shall ensure that measures for managing environmental risk factors to curtail occurrence and spread of diseases are put in place and implemented.

Provision and
Use of
Sanitation
Facilities

47 (1) No person shall defecate or urinate in the open space or in the bush, shrub rather than a Sanitation Facility. Anybody who does the contrary shall commit an offence. Any person who contravenes this provision shall be liable upon conviction to a fine not exceeding five hundred Kenya shillings or six months imprisonment or both if convicted

(2) No person shall construct, rent or use any building or part of a building without provision of a Sanitation Facility. Anybody who does the contrary will have committed an offence.

(3) Any person who fails to provide a Sanitary Facility upon conviction shall be guilty of an offence and liable for a fine not exceeding fifty thousand Kenya shillings or six months imprisonment or both if convicted.

Provision and
Use of Liquid
Waste Disposal
Facilities

48 (1) No person shall construct, rent or use any building or part of a building without provision for liquid waste disposal mechanism, either in form of a septic tank, connection to sewerage, or any other standard liquid waste disposal facility as to the satisfaction of the Public Health Officer.

(2) No person shall construct any septic tank, storage tank, soak pit or sewage installation or other works for reception or disposal of liquid waste without a written approval from a Public Health Officer.

(3) Such septic tanks, storage tanks, soak pits or sewage installations shall be constructed in such a manner and such a position as to afford ready means of access thereto for the purposes of cleaning of the same and removing the contents thereof without being carried through any building.

(4) Any person who disposes any liquid waste in an open ground, river, lake, ponds or any area other than a septic tank, soak pit or any other approved Liquid waste disposal receptacle upon conviction shall be guilty of an offense.

(5) Any person who is guilty of an offense under, contravention of, default of complying with any provision in the Provision and Use of Liquid Waste Disposal Facilities shall be liable on conviction to a fine not exceeding Fifty thousand Kenya shillings or six months imprisonment, or both.

Solid Waste Management 49 (1) It shall be the duty of the town administrator, or the Sub-County administrator, or any other authorized officer, as the case may be, to clean or cause to be cleaned and to remove all waste and maintain cleanliness in urban centers, towns, markets, any other trading centers, and any other public places in the County.

(2) It shall be the duty of every Occupier or Owner or agent of a trade premise or any other development to clean or cause to be cleaned and to remove all waste and maintain cleanliness of their house and its surrounding, trade premise or any other development to the satisfaction of a Public Health Officer provided that the duty of the Occupier or Owner or agent shall not include cleaning of the main road or a public plot.

(3) The Owner or Occupier of every premise within every market, town, and any other trading center within the County shall provide and maintain a standard solid waste receptacle (litter bin) to the satisfaction of a Public Health Officer.

(4) No person shall place or cause or permit to be placed at the frontage or surrounding of any trade premise or any other building any dirt, rubbish, stones, soil, demolition materials or any other sort of solid waste.

(5) No person shall litter or cause to be littered on the street, public places or any other places other than the designated solid waste disposal receptacles, litter bins or any other approved solid waste disposal site.

(6) The County Executive Committee Member may designate one day in a month to be a voluntary Public Cleaning Day for all markets, towns, and any other trading centers in the County.

(7) Any person guilty of an offense under Solid Waste Management shall be liable on conviction to a fine not exceeding Twenty thousand Kenya shillings or to an imprisonment for a term not exceeding six months or to both such a fine and imprisonment.

- 50 (1) Generators of medical waste shall handle and store medical waste in a manner that does not pose a threat to public health or to the environment and are under a duty to ensure such medical waste is removed from their premises, transported and disposed of in accordance with provisions of this Act.
- (2) Without limiting the generality of 50. (1), generators shall –
- (a) Separate medical waste from other waste at the point of generation or source;
 - (b) Store medical waste in leak-proof, sealable containers and ensure that containers which are used for the storage of sharps and other clinical items which can cause cuts or punctures or injections are, in addition, rigid and puncture resistant;
 - (c) Label each medical waste container indelibly and in large, legible lettering with –
 - (i) The names and the address of the generator; and
 - (ii) The words "Danger: Medical Waste", "Hatarikwamaambukizi".
 - (d) Prevent public access to medical waste containers, which are in use;
 - (e) Store filled medical waste containers in controlled, secure areas, which are reserved for the storage of medical waste;
 - (f) Make arrangements for the removal of medical waste from their premises and for the transportation of medical waste to a disposal site by an approved transporter;
 - (g) Make arrangements for disposal of medical waste in a manner compliant to the current National Public Health standards on management of medical waste; and
 - (h) Maintain an up-to-date written record of medical waste generated from their premises in the format as prescribed from time to time by the County Executive Committee Member. The records referred to shall be kept permanently after the removal of the medical wastes from their premises.
- (3) Transporters shall remove medical waste from the premises of a generator, transport, and store and deliver such medical waste to the site at which it will be disposed of in a safe manner which poses no threats to human health or the environment.
- (4) Without limiting the generality of the duty in 50 (3), Transporters of medical wastes shall –
- (a) Transport and store medical waste in such a way that no member of public or transport crew, or waste material handlers can gain access to the medical waste or the container in which it is stored;

- (b) Transport medical waste in vehicles which are capable of containing medical waste; designed to prevent spillages; constructed of materials which are easy to clean and to disinfect; Capable of being secured in order to prevent unauthorized access;
- (c) Deliver medical waste only to a site authorized to dispose medical waste; and
- (d) Transporters shall maintain a written record in respect of each collection and delivery of medical waste, which they shall update simultaneously with each collection and delivery, and such record shall be in the format as prescribed from time to time by the County Executive Committee Member, and must keep a permanent record from the date of which the medical waste is delivered.

(5) Every transporter of medical waste shall register with the County Department of Health Services and Sanitation

(6) Any person who is guilty of an offense under, contravention of, default of complying with any provision in the Medical Waste Management shall be liable on conviction to a fine not exceeding One Hundred thousand Kenya shillings or a term of imprisonment not exceeding one year or both fine and imprisonment.

Menstrual
Hygiene
Management

51. (1) All institutions, working places, and other establishments hosting institutionalized persons that includes females shall carry out necessary measures to promote good menstrual health and hygiene practices and guarantee access to safe, healthy environment and improved menstrual sanitation facilities by all women and girls.

(2) Without prejudice of the generality of subsection (1), the aforesaid institutions shall –

- (a) Integrate menstrual health and hygiene issues into work place policies, plans and programmes;
- (b) Integrate menstrual health and hygiene education into institutional activities;
- (c) Provide safe, adequate and appropriate sanitary facilities including water, cleansing and washing materials and private spaces for managing menstrual flows hygienically and privately and with dignity;
- (d) Support vulnerable girls and women in special circumstances such as disaster and emergency situations to have access to appropriate sanitary towels; and
- (e) Provide Sanitary Facilities that are considerate to security, privacy and hygiene needs of women and girls during menses.

52. (1) The occupier of any premises used for the manufacture, preparation, storage or sale of food shall at all times keep such premises and all vessels, instruments or utensils used in connection with such manufacture, preparation, storage or sale in a clean and wholesome condition to the satisfaction of a Public Health Officer.

(2) In furtherance to the provision subsection (1), no person shall use any substandard utensils for the purposes of serving ready to eat food to his or her customer

(3) No person shall use any premises for the manufacture, preparation, storage or sale of food unless he shall be in lawful possession of valid license issued by the County Department of Health services and Sanitation, and shall include, among others, a Food Hygiene License.

(4) No food intended for sale shall be stored or displayed for sale other than in premises licensed for such purposes and under no circumstances shall such food be stored in premises used for human accommodation.

(5) In furtherance to provision sub section (4), No person shall be allowed to sell food by way of hawking. Any person who sells food by way of Hawking shall be guilty of an offense

(6) All persons working in a Food Plant shall wear clean outer garment which shall be white in colour and their hair, mouth and nostrils must be covered appropriately by use of acceptable hygienic material. Anyone who does the contrary shall be guilty of an offense.

(7) All packaged food shall clearly be factory marked so as to show the batch number, “dates of manufacture and Expiry” showing the last day, month and year before which the product may be sold.

(8) Any person who shall sell any food, whose date marking has expired, shall be guilty of an offense.

(9) Any owner or occupier of any butchery shall ensure that he has provided among other items, a hacksaw in his or her butchery for cutting bone meat.

(10) Any person who cuts meat bone for sale or otherwise to the general public without the use of a hacksaw shall be guilty of an offense.

(11) No owner or occupier of a butchery or meat shop shall wrap any meat using a newspaper or in any other material not suitable for wrapping meat as prescribed by the Department.

(12) No person shall transport meat in any vehicle or any vessel or receptacle within the County without a valid Food Hygiene License issued pursuant to this Act.

(13) Any person who is guilty of an offense under Food Hygiene for which no special penalty is provided shall be liable to a fine not exceeding fifty thousand Kenya shillings or to imprisonment for a term not exceeding six months or to both such fine and imprisonment.

Water Safety and
Quality Control

53. (1) No person shall bathe in, swim in, wash clothes, wash vehicles or motorcycles, or other articles in a public river or any other public water source.

(2) No person shall supply or sell water for human consumption unless that water is adequately treated, either by way of chlorination or any other Nationally recommended method, except boiling. A person who does the contrary commits an offense.

(3) Any Owner or Occupier of a Food Plant shall ensure the water used in connection to manufacture, preparation, storage of food or direct consumption by the customers is adequately treated as stipulated in subsection (2), and shall at all times ensure there is such treated water in adequate quantities for the use in the Food Plant.

(4) Any person who is guilty of an offense under this section shall be liable to a fine not exceeding fifty thousand Kenya shillings or to imprisonment for a term not exceeding six months or both to such a fine and imprisonment.

Prevention and
Suppression of
Public Health
Nuisances

54. (1) No person shall cause a nuisance or shall suffer to exist on any land or premises owned or occupied by him or of which he is in charge of any nuisance or other condition liable to be injurious or dangerous to health.

(2) It shall be the duty of every town administrator or sub-county administrator, or any other authorized officer as the case may be, to take all lawful, necessary and reasonably practicable measures for maintaining towns, markets or any other trading centers at all times in a clean and sanitary condition, and for preventing the occurrence therein, or for remedying or causing to be remedied, any nuisance or condition liable to be injurious or dangerous to health;

What
Constitutes
Nuisance

55.(1) The following shall be deemed to be nuisances liable to be dealt with in the manner provided in this Part –

- (a) any vessel, and any railway carriage or other conveyance, in such a state or condition as to be potentially injurious, injurious or dangerous to health;
- (b) any dwelling or premises or part thereof which is or are of such construction or in such a state or so situated or so dirty or so verminous as to be, in the opinion of the Public Health Officer, potentially injurious, injurious or dangerous to health, or which is or are liable to favour the spread of any infectious disease;
- (c) any street, road or any part thereof, any stream, pool, ditch, gutter, watercourse, sink, water-tank, cistern, Sanitary Facility, cesspool, soak-away pit, septic tank, cesspit, soil-pipe, waste-pipe, drain, sewer, garbage receptacle, dust-bin, dung-pit, refuse-pit, slop-tank, ash-pit or manure heap so foul or in such a state or so situated or constructed as in the opinion of the Public Health Officer to be offensive, potentially injurious, injurious or dangerous to health;
- (d) any well or other source of water supply or any cistern or other receptacle for water, whether public or private, the water from which is used or is likely to be used by human beings for drinking or domestic purposes or in connection with any dairy or milk shop, or in connection with the manufacture or preparation of any article of food intended for human consumption, which is in the opinion of the Public Health Officer is polluted or otherwise liable to render any such water potentially injurious, injurious or dangerous to health
- (e) any noxious matter, or waste water, flowing or discharged from any premises, wherever situated, into any public street, or into the gutter or side channel of any street, or watercourse, irrigation channel or bed thereof not approved for the reception of such discharge;
- (f) any stable, cow-shed or other building or premises used for keeping of animals or birds which is so constructed, situated, used or kept as to be offensive or which is potentially injurious, injurious or dangerous to health;
- (g) any accumulation or deposit of refuse, offal, manure or other matter whatsoever which is offensive or which is potentially injurious, injurious or dangerous to health;
- (h) any animal so kept or loitering as to the opinion of the Public Health Officer is a nuisance or likely to be potentially injurious, injurious or dangerous to health;
- (i) any accumulation of stones, timber or other material if such in the opinion of the Public Health Officer is likely to harbour rats or other vermin;
- (j) any premises in such a state or condition and any building so constructed as to be likely to harbour rats or other vermin

- (k) any dwelling or premises which is so overcrowded as to be injurious or dangerous to the health of the occupants, or is dilapidated or defective in lighting or ventilation, or is not provided with or is so situated that it cannot be provided with sanitary accommodation to the satisfaction of the Public Health Officer;
- (l) any public or other building which is so situated, constructed, used or kept as to be unsafe, potentially injurious, injurious or dangerous to health;
- (m) any occupied dwelling for which such a proper, sufficient and wholesome water supply is not available within a reasonable distance as under the circumstances it is possible to obtain;
- (n) any factory or trade premises not kept in a clean state and free from offensive smells arising from any drain, Sanitary Facility, or any processes taking place therein, or not ventilated so as to destroy or render harmless and inoffensive as far as practicable any gases, vapours, dust or other impurities generated, or so overcrowded or so badly lit or ventilated as to the opinion of the Public Health Officer is potentially injurious, injurious or dangerous to the health of those employed therein or the neighbours thereof;
- (o) any area of land or premise so kept or permitted to remain in such a state as to be offensive, or liable to cause any communicable or preventable disease or injury or danger to health
- (p) any chimney or any other vessel or undertaking sending forth smoke in such quantity or in such manner as to be offensive, potentially injurious, injurious or dangerous to health;
- (q) any cemetery, or any other burial-place so situated or so crowded or otherwise so conducted as to be offensive, potentially injurious, injurious or dangerous to health; or
- (r) any act, omission or thing which to the opinion of the Public Health Officer is, or may be, dangerous to life, potentially injurious or injurious to health.

(2) Any person who is guilty of an offense under this section shall be liable to a fine not exceeding fifty thousand Kenya shillings or to imprisonment for a term not exceeding six months or both to such a fine and imprisonment.

Notice to remove nuisance 56. (1) The Public Health Officer, if satisfied of the existence of a nuisance, shall serve a notice on the author of the nuisance or, if he cannot be found, on the occupier or owner of the dwelling or premises on which the nuisance arises or continues, requiring him or her to remove it within the time specified in the notice, and to execute such work and do such things as may be necessary for that purpose, and, if the Public Health Officer think it desirable, specifying any work to be executed to prevent a recurrence of the said nuisance.

(2)The duration of such notice shall be determined by the Public Health Officer depending on the magnitude of the cause of the nuisance

Provided that –

- (a) where the nuisance arises from any want or defect of a structural character, or where the dwelling or premises are unoccupied, the notice shall be served on the owner; and
- (b) where the author of the nuisance cannot be found and it is clear that the nuisance does not arise or continue by the act or default or sufferance of the occupier or owner of the dwelling or premises, the Public Health Officer shall remove or cause to be removed and may do what is necessary to prevent the recurrence thereof.

Procedure if Owner or Occupier fails to comply with Notice

57. If the person on whom a notice to remove a nuisance has been served as per provision of Section 6, fails to comply with any of the requirements thereof within the time specified, the Public Health Officer shall cause to be closed, or vacated any land, or premise, or vessel, or any other place in connection to the nuisance until such a time when the author, or occupier, or owner shall comply with the requirements of the notice.

Penalty regarding Nuisances

58. (1) Any person who contravenes any of the provisions of Prevention and Suppression of Public Health Nuisances, or otherwise fails to comply with the requirements of the Public Health Officer to remove or cause to be removed the nuisance shall be guilty of an offence and liable to a fine not exceeding one hundred thousand Kenya shillings; and any person willfully acting in contravention of a duly served closing order shall be guilty of an offence and liable to a fine not exceeding one hundred thousand Kenya shillings.

Powers of entry without a warrant

59. (1) The Public Health Officer may in such case enter the premises to which any such order relates, and remove the nuisance and do whatever may be necessary in the execution of such order, and recover in any competent court the expenses incurred from the person on whom the order is made.

(2) Whenever it appears to the satisfaction of the Public Health Officer that the person by whose act or default the nuisance arises, or that the owner or occupier of the premises, is not known or cannot be found, a notice may be served to the town administrator, or Sub-County administrator to execute the works thereby directed.

Power of Entry
and Inspection

60. (1) The Public Health Officer or, on the order of a magistrate, any police officer at or above the rank of Inspector, may enter any building or premises, any land, any vessels or any other place as the case may be for the purpose of examining as to the existence of any nuisance therein at all reasonable times; and the Public Health Officer or any other authorized officers may if necessary open up the ground of such and cause the drains to be tested, or such other work to be done as may be necessary for the effectual examination of the said premises: Provided that if no nuisance is found to exist the Public Health Officer shall restore the premises at their own expense.

(2) When entering a premise in terms of sub-section (1), the Public Health Officer or the Authorized Officer shall on request by any person, identify himself or herself by producing a proof of Authorization.

Service of
Documents
and Process

61. Whenever any notice, order, demand or other document is authorized or required to be served on a person in terms of this Act, it shall be deemed to have been effectively and sufficiently served on that person –

- (a) When it has been delivered to him or her personally or his/her agent or representative;
- (b) When it has been left at his or her place of residence or business in Kenya with a person apparently over the age of eighteen years;
- (c) Where it has been posted by registered mail to his or her last known residential or business address in Kenya and an acknowledgement of the posting thereof produced;
- (d) If his address and agent in Kenya are unknown, then it will be posted in conspicuous place on the immovable property (if any) to which it relates or published in a daily newspaper of country wide circulation;
- (e) When any notice, order, demand or other document as aforesaid is authorized or required to be served on a person by reason of his being or having been the owner or occupier of or holding some other right in respect to immovable property, it shall not be necessary to name him but it shall be sufficient if he is therein described as the owner, occupier or holder of such immovable property or other right, as the case may be.

Obstruction of
Officers on Duty

62. (1) Any person who willfully interferes, hinders or obstructs a duly authorized county officer while in execution of his or her duty in connection to this Act commits an offense.

(2) Any person who is guilty of committing an offense under section 62 shall be liable to a fine not exceeding one hundred thousand Kenya

shillings or to imprisonment for a term not exceeding one year or both to such a fine and imprisonment.

Authorized
Officers

63. (1) For the purposes of ensuring compliance with the provisions in the Promotion of Public Health and Sanitation, a Public Health Officer appointed under Public Health Act (Cap. 242) shall be deemed as an Authorized Officer.

(2) Notwithstanding the provisions of subsection (1), the County Executive Committee Member may appoint any person or class of persons to be authorized officers for purposes of enforcing the requirements of Promotion of Public Health and Sanitation provided such persons acts with collaboration with public health officers.

(3) The County Executive Committee Member shall issue a certificate of appointment to every person appointed under this section.

PART VI – PLANNING AND PERFORMANCE MONITORING

64. (1) In accordance with the County Governments Act, 2012, the Health Plan Department shall prepare a ten-year Health plan which shall provide –

- (a) investment in physical infrastructure in the County Health facilities;
- (b) human resources for Health strategy and development;
- (c) strategies for controlling key risk factors including poor sanitation, open defecation, tobacco use and alcohol abuse among others;
- (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) strategies for community engagement and action; and
- (f) any other matter that the County Executive Committee Member may require.

(2) The Health plan may provide for specific targeted interventions based on the County, Sub-County, Ward or any other administrative units as may be deemed appropriate.

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

(4) The Health plan shall be adopted by the County executive committee.

65. (1) Each County Health Facility established under section 7 shall be a Planning Units planning unit.

(2) Each planning unit shall –

- (a) develop five year strategic plan which shall be approved by the respective Committee and by the County Health Management Team;
- (b) develop annual work plan which shall be approved by the respective Committee and by the County Health Management Team;
- (c) prepare annual estimates of income and expenditure; and
- (d) implement County Health policies and programs at the respective level.

(3) For every plan by the planning units, the Sub-County Health Management Team shall collate for all the planning units within their areas of jurisdiction to form one Sub-County Plan.

(4) For every plan by the Sub-County Health Management Teams, the County Health Management Team shall collate for a one County Plan.

(5) A strategic plan prepared under subsection (2) Shall be in accordance with the Health plan prepared under section 64.

66. The Department shall, in each year –Prepare quarterly reports on Health status and submit to the County assembly of Tharaka Nithi County in pursuant to article 183 (3) of the Constitution of Kenya, 2010. Quarterly Reports

67. (1) There shall be established in the Department the Quality Assurance and Compliance Unit. Quality Assurance and Compliance Unit

(2) The Compliance and Quality Assurance Unit shall be responsible for carrying out inspections and Health systems audit in County Health facilities in order to ensure compliance with established standards and quality management systems.

68. (1) The County Executive Committee Member in consultation with the County Health Management Team, shall prescribe the standards and procedures for conducting audit under section 67 Quality Assurance and Compliance Audit

(2) The Quality Assurance and Compliance Unit shall –

- (a) conduct continuous scheduled or non-scheduled inspections and Health systems audit in County Health facilities. and
- (b) conduct once every three years, a comprehensive Health systems audit and assessment of each County Health Facility.

(3) A person in charge of a County Health Facility shall provide the necessary support and information to the Quality Assurance and Compliance 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 43, the Quality Assurance and Compliance Unit may conduct inspections and Health systems audit in private Health facilities

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

- (a) a report for each facility inspected or audited and submit it to the management of the facility, the County and or Sub-County Health Management Team; and
- (b) a report of its operations to the County Executive Committee Member every six months.

PART VII – FINANCIAL PROVISIONS

Funds

69. (1) The funds for financing the implementation of Health Services and Sanitation shall consist of –

- (a) such grants or transfers of funds as may be received from the National Government;
- (b) such monies as may be appropriated by the County Assembly;
- (c) grants and donations received from any lawful source;
- (d) such other monies received from National Government as conditional or non-conditional grants, for services rendered to patients in accordance with the established system;
- (e) such monies received as user charges, fees payable or insurance payments collectable under this Act;
- (f) any income generated by a County Health Facility or Public Health office from any project initiated by the Health facility or Public Health Office;
- (g) notwithstanding the provisions of subsection 68 (1), all Hospitals, Sub-County Public Health Offices and County Health Management Team shall be funded directly from the County treasury; and
- (h) the funds collected by a County Health Facility or a Sub-County Public Health Office or any other Health unit currently in existence or as may be established in future under subsection (1) (c), (d), (e) and (f) –
 - (i) shall be deposited into the County revenue fund and the whole amount shall be transferred without deduction to a bank account operated by the County Health Facility or the Sub-County Public Health Office for that purpose; and

(ii) shall be utilized solely for provision of Health services and development in the County Health Facility or Sub-County Public Health Office or any authorized Health unit where the funds are received or generated in accordance with the expenditure plans and in conformity with annual estimates of the Health facility or Sub-County Public Health Office or any authorized Health unit as approved by the relevant Chief Officer for the time being in charge of Health Services and Sanitation

(2) Subject to subsection (4), a County Health Facility or Public Health Office or any authorized Health unit may charge such user charges or fees for the services rendered.

(3) The County Executive Committee Member, in consultation with the County Health Management Team shall prescribe the user charges and fees payable under each County Health Facility and Public Health Office or any authorized Health unit as approved by the county executive committee.

(4) A Health facility and Sub-County Public Health Office or any authorized Health unit shall open a bank account into which monies received under subsection (1) (c), (d), (e) and (f) shall be paid solely for the purposes of managing and administering the funds received.

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

(6) The County Executive Committee Member may, subject to the approval of the County Treasury, open a bank account for the Department for the purposes of managing any monies received by the Department as grants or donations where appropriate.

(7) The County Executive Committee Member shall ensure that the County Health Management Team is sufficiently funded to carry out its supervisory role across the County.

(8) Hospitals collecting user fees from the clients and patients will remit 25% of their quarterly collections to the County Health Management Team account, out of which 60% is shared amongst the sub counties and 40% to the County Health Management Team, to enable the teams conduct their supervisory work.

Procurement

70. (1) The Department shall constitute a committee that will be guiding the process of procurement of goods and services before the requests are forwarded to the County Procurement Department.

(2) Notwithstanding subsection (1), a Hospital classified as a County and Sub-County Hospital under section 7 shall constitute committees for purposes of guiding the procurement of goods and services in their facilities.

(3) The Committee described under subsection (1) and (2) shall not facilitate procurement of any goods or services that do not meet the standards prescribed under any written law or regulatory authority.

(4) Any supplier who supplies any goods and services that fall below the recommended standards shall be forced to take back the goods and no payment should be made for the same.

(5) The County Department of Health Services and Sanitation may recommend to the Director of Procurement that a manufacturer or supplier who supplies any goods and services in the County Department of Health Services and Sanitation that does not meet the prescribed standards be barred from supplying any further goods and services.

(6) The County Executive Committee Member shall in consultation with the County Executive Committee ensure that the procurement system for goods and services in the County Department of Health Services and Sanitation is efficient.

PART VII – GENERAL PROVISIONS

71. (1) All written laws in force immediately before the effective date of this law stands repealed. However, if any provisions of this Act are in conflict with this law or the National Law, in either case, if the conflict is with the National Law the provision in the National Law takes precedence to the extent of the conflict. If, with respect to any particular matter –

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- (a) a law that was in effect immediately before the effective date assigns responsibility for that matter to a particular State organ or public officer; and
- (b) a provision of this Act that is in effect assigns responsibility for that matter to a different State organ or public officer.

the provisions of this Act shall prevail to the extent of the conflict

72. (1) The County Executive Committee Member may, where necessary make regulations to facilitate the implementation of this act or guide the provision of Health and Sanitation services in the County. Regulations

(2) Without prejudice to the generality of subsection (1), the regulations shall

–

- (a) prescribe the County Health Facilities under the provided categories;
- (b) prescribe the number of Community Health Units, Dispensaries, Health Centres and Hospitals in every Sub-County;
- (c) prescribe the manner of selecting Community Health Volunteers;
- (d) prescribe the manner of appointing members of the Community Health Committees;
- (e) prescribe operational policies and guidelines for management and administration of a County Health Facility;
- (f) prescribe the Health outcomes;
- (g) prescribe the standards and procedures for conducting Quality Assurance and Compliance audits;
- (h) prescribe data and information to be collected and collated from public and private Health service providers; and
- (i) prescribe the procedure of the business of the County Health Sector Forum and the Executive Committee of County Health Sector Forum.

72. (1) A person convicted of an offence under this Act for which no penalty is provided shall, on conviction, be liable to a fine not exceeding five hundred thousand Kenya shillings or to imprisonment for a term not exceeding one year, or both. General Penalty

(2) An act or commission of an offence under this Act or any regulations made hereunder shall, if done by a body corporate, be deemed to be an offence committed by every director, secretary or manager of the body corporate unless proved that the offence was committed without consent or connivance of the director, secretary or manager and that he or she exercised all such diligence to prevent the commission of the offence as he or she ought to have exercised having regard to the nature of his or her functions and circumstances of the case.

(3) If an offence under this Act or any regulations made hereunder is committed by a partner in a firm, every person who, at the time of the commission of the offence, was a partner in that firm, or was purporting to act in that office shall be deemed to have committed the offence, unless there is proof that the offence was committed without the consent or connivance of the partner and that he or she exercised all such diligence to prevent the commission of the offence as he or she ought to have exercised having regard to the nature of his or her functions and the circumstances of the case.

1. (1) The Committee shall meet not less than four times in every financial year and not more than three months shall elapse between the date of one meeting and the date of the next meeting

Meetings

(2) Notwithstanding the provisions of subparagraph (1), the chairperson may, and upon requisition in writing by at least half of the members, or in consultation with the Secretary, convene a special meeting of the Committee at any time for the transaction of the business of the Committee

(3) The quorum for the conduct of the business of the Hospital Management Committee and Health Centre Management Committee shall be five members and for the Dispensary Management Committee shall be three members including the chairperson or the person presiding

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

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

2. (1) If a member is directly or indirectly interested in an outcome of any decision of the Committee or other matter before the Committee and is present at a meeting of the Committee at which the matter is the subject of consideration, that member shall, at the meeting and as soon as practicable after the commencement thereof, disclose 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 of interest

Provided that, if the majority of the members present are of the opinion that the experience or expertise of such member is vital to the deliberations of the meeting, the Committee may permit the member to participate in the deliberations subject to such restrictions as it may impose but such member shall not have the right to vote on the matter in question

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

(3) Where the Committee becomes aware that a member has a conflict of interest in relation to any matter before the Committee, the Committee shall direct the member to refrain from taking part, or taking any further part, in the consideration or determination of the matter

(4) If the chairperson has a conflict of interest he/she shall, in addition to complying with the other provisions of this section, disclose the conflict that exists to the County Executive Committee Member in writing

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

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

4. The Committee shall cause minutes of all resolutions and proceedings of meetings of the Committee to be entered in books kept for that purpose Minutes

MEMORANDUM AND OBJECTS OF REASON

The purpose of this Bill is to provide for an efficient and effective Health and Sanitation Service System which will ensure the provision of quality, affordable, timely and accessible Health and Sanitation Services to all the citizens of Tharaka Nithi County.

Part I provides for the preliminaries, Purpose of the Act, Principles of Health and Sanitation Service Provision.

Part II deals with Health services and sanitation, Functions of the Department, Classification of County Health Facilities, Establishment of County Health Facilities, Office of the County Director of Health and Sanitation Services, Functions of the County Director of Health Services and Sanitation, Directorates in the Department, County Health Management Team, Functions of the County Health Management Team, Sub-County Health Management Team, Committee of the Hospital, Functions of the Committee of Hospital, Committee of a Health Centre, Functions of the Committee of a Health Centre, Committee of Dispensary, Functions of the Committee of Dispensary, Conduct of Business of a Committee, Removal from Office, Management of County Health Facilities, Operational guidelines and standards for administration of County Health Facility, Human Resources for Health, County Health Sector Stakeholders Forum, County Health Sector Stakeholders Forum and County Health Sector Stakeholders Forum.

Part III deals with Rights and duties, Duties of Healthcare Workers, Rights of Healthcare personnel, Duties of a User, Rights of a User, Informed Consent, Confidentiality and Complaints Management.

Part IV deals with Disease Prevention and Control, Medicines, Medical Supplies and Public Health Commodities, Community Health Services, Community Health Services, Health information system, Supervision of private health facilities, cooperation and collaboration.

Part V deals with Promotion of Public Health and Sanitation, Policy Direction, Duty to Safeguard Environment, Provision and Use of Sanitation Facilities, Provision and Use of Liquid Waste Disposal Facilities, Solid Waste Management, Medical Waste Management, Menstrual Hygiene Management, Food Safety and Quality Control, Water Safety and Quality Control, Prevention and Suppression of Public Health Nuisances, What Constitutes Nuisance, Notice to remove nuisance, Procedure if Owner or Occupier fails to comply with Notice, Penalty regarding Nuisances, Powers of entry without a warrant, Power of Entry and Inspection, Service of Documents and Process, Obstruction of Officers on Duty Authorized Officers.

PART VI deals with Planning and Performance Monitoring, Health Plan, Planning Units, Quarterly Reports, Quality Assurance and Compliance Unit, Quality Assurance and Compliance Audit.

PART VII deals with Financial Provisions that is the Funds and Procurement.

PART VII deals with the General Provisions, Health Laws and Policies, Regulations and General Penalty.