



**SPECIAL ISSUE**

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REPUBLIC OF KENYA

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**KENYA GAZETTE SUPPLEMENT**

**NANDI COUNTY ACTS, 2022**

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**NAIROBI, 1st November, 2022**

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2022**

**No. 3 of 2022**

*Date of Assent: 10th June, 2022*

*Date of Commencement: See Section 1*

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2022

*Nandi County Facilities Improvement Fund*

**THE NANDI COUNTY FACILITIES  
IMPROVEMENT FUND ACT, 2022**

**AN ACT of County Assembly of Nandi to establish the Nandi County Facilities Improvement Fund; to provide for the additional funding for the management of health systems and public Facilities Improvement in the County; to enable sustainable operations of health facilities; and for connected purposes.**

**ENACTED** by Nandi County Assembly as Follows—

**PART I — PRELIMINARY PROVISIONS**

1. This Act may be cited as Nandi County Facilities Improvement Fund Act, 2022, and shall come into operation upon publication.

Short title and commencement

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

Interpretation.

“Appropriation-in-Aid” means any revenue which a health facility/entity receives and is approved by this Act for application by that facility/entity to finance its activities;

“Board” means Nandi County Facility Improvement Fund Board established under section 5;

“Chief Officer” means the Chief Officer and accounting officer of the Department for the time being responsible for health services;

“County” means the County Government of Nandi;

“County Assembly” means the County Assembly of Nandi;

“County Executive Committee Member” means the County Executive Committee Member for the time being responsible for matters relating to Health;

“County Treasury” has the meaning assigned to it under section 103 of the Public Finance Management Act, 2012;

“Department” means the department for the time being responsible for matters relating to Health;

“financial year” means the period of twelve months beginning 1st July ending on the 30th June of the

subsequent year;

“Fund” means Nandi County Facilities Improvement Fund established under section 4;

“Fund Account” means the Nandi County Facilities Improvement Fund Account created under section 6 (4);

“Fund Administrator” means the person designated under section 16 to manage the Facilities Improvement Fund by the County Executive Committee Member for finance pursuant to section 116 of the Public Finance Management Act, 2012;

“Fund Board” means the Nandi County Facilities Improvement Fund Board established under section 5 (1);

“health facility” means any other health establishment, licensed under any written law, other than a hospital which provides health services, and includes health centres, mobile clinics and dispensaries;

“hospital” means a gazetted county or sub-county hospital including a registered faith based equivalent health facility;

“hospital management boards” means the County and Sub-County hospital management boards established under sections 19 and 20, respectively;

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

“user charges” means cost-sharing charges.

3. The objects of this Act are to—

Objects of the Act.

- (a) provide for a framework to allow the Health sector and health facilities retain monies received in accordance with provisions of section 109 (2) (b) read with section 116 (1) of the Public Finance Management Act, 2012;
- (b) establish a Nandi County Facilities Improvement Fund;
- (c) provide for the process of nomination and appointment of the Fund Board;
- (d) provide for the appointment of hospitals and

health facilities management boards and committees; and

- (e) provide for a framework for performance based financing of health service in the County in order to—
- (i) sustainably operate, maintain, equip, rehabilitate health facilities and procure emergency medical supplies in hospitals and health facilities in the county;
  - (ii) enhance participation of relevant stakeholder and host communities in the planning and management of health facilities and hospitals located in their jurisdiction;
  - (iii) create incentives for hospitals and health facilities to sustainably generate resources;
  - (iv) provide funding for the day to day operations of hospitals and health facilities;
  - (v) provide for financing of preventive and promotional healthcare services;
  - (vi) provide immediate funds for health relate emergencies and disaster; and
  - (vii) ensure that 70% of the resources of the Fund shall be retained within the collecting facilities while 20% of the funds shall facilitate Primary healthcare facilities and 10% of the funds shall be used as administrative services;

Provided that levels 2 and 3 are exempted from this ratio/formula.

**PART II — ESTABLISHMENT AND  
MANAGEMENT OF THE FACILITY  
IMPROVEMENT FUND**

4. (1) The County Executive Committee Member for finance shall within thirty days of Gazzettement of this Act establish the Nandi County Facilities Improvement Fund.

Establishment of the  
Fund

(2) The Fund shall consist of—

- (a) monies that may be appropriated by the

County Assembly for operations of health facilities except money provided in the budget for purchase of medical commodities as well as conditional allocations by the national government;

- (b) monies received as contributions, gifts or grants from any lawful source;
- (c) monies earned or received as user charges;
- (d) income generated from the proceeds of the Fund;
- (e) income generated from environmental health services;
- (f) funds from the free maternity service allocated to the County;
- (g) funds received as reimbursement from National hospital Insurance Fund and other medical insurance entities; and
- (h) any user fees foregone.

(3) All resources due to the Fund shall be received and paid to the Fund in full and shall be collected and accounted for in compliance with the accounting standards prescribed and published by the Accounting Standards Board.

(4) All monies raised or received directly by county health facilities shall be paid into the Facilities Improvement Fund and not the County Revenue Fund.

(5) The revenue receipts, earnings and accruals of the Fund shall be received and accounted for as Appropriation-in-Aid.

(6) The budget estimates for the Fund, as approved by the Fund Board, shall be submitted together with the estimates of the Department to county treasury for consolidation.

(7) The budget estimates of the Fund shall comprise separate expenditure plans for all health facilities which raise or receive revenue from their services.

(8) Budget estimates of the Fund shall indicate expenditure net of Appropriation-in-Aid and as approved

by the County Assembly.

5. The initial capital of the Fund shall be such amounts of money as may be appropriated by County Assembly in that financial year.

Capital of the Fund

6. (1) The County Executive Committee Member responsible for finance shall designate a person from the County public service who shall administer the Nandi County Facilities Improvement Fund.

Administration of the Fund

(2) The Fund Administrator appointed under subsection (1) shall be the accounting officer of the Fund.

(3) The Fund Administrator shall—

- (a) prepare and keep the accounts of the Fund in each financial year;
- (b) not later than three (3) months after the end of each financial year, submit financial statements relating to those accounts to the Auditor-General; and
- (c) present financial statements to the County Assembly.

(4) The Fund Administrator shall cause an account to be opened in any commercial bank, approved by the County Treasury, and the account shall be known as the “Nandi County Facilities Improvement Fund Account”.

(5) The signatories of the Fund Account shall be—

- (a) the Fund Manager;
- (b) the chief officer Health services; and
- (c) the county Director of Health services.
- (d) The Director for Administration in the Department of Health.

(6) The Fund Administrator shall ensure that the resources of the Fund Account are used for the purpose for which they were intended and shall ensure that the earnings of, or accruals to the Fund are retained in the Fund.

(7) The Fund Administrator shall ensure that the accounts for the Fund and the annual financial statements relating to those accounts comply with the accounting standards prescribed and published by the Accounting

Standards Board.

(8) The County Executive Committee Member responsible for finance shall issue regulations on the banking arrangements for the Fund pursuant to the provisions of the Public Finance Management Act, 2012, and its regulations.

7. (1) The Fund Administrator is accountable to the Fund Board for ensuring that the resources of the Fund for which the officer is designated are used in a way that is—

*Functions of the  
Fund Administrator.*

- (a) lawful and authorized; and
- (b) effective, efficient, economical and transparent.
- (2) In carrying out the responsibilities imposed by subsection (1), the Fund Administrator shall—
  - (a) ensure that all expenditure made by the Fund complies with subsection (1);
  - (b) ensure that the Fund keeps financial and accounting records that comply with the Public Finance Management Act, 2012;
  - (c) prepare a quarterly report on the receipts into and issues out of the Fund and submit it to the Board for gazettelement by the 21st of every fourth month of a financial year;
  - (d) develop the criteria for the allocation of funds for approval by the Board;
  - (e) prepare in consultation with the health facility board or committees a schedule of annual distribution of resources to health facilities;
  - (f) ensure that all financial and accounting records that the Fund keeps in any form, including in electronic form, are adequately protected and backed up;
  - (g) ensure that all contracts entered into on behalf of the Fund are lawful and are complied with;
  - (h) ensure that all applicable accounting procedures are followed when acquiring or disposing of goods and services and that, in the case of goods, adequate arrangements are made for their

## Standards Board.

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  - (d) develop the criteria for the allocation of funds for approval by the Board;
  - (e) prepare in consultation with the health facility board or committees a schedule of annual distribution of resources to health facilities;
  - (f) ensure that all financial and accounting records that the Fund keeps in any form, including in electronic form, are adequately protected and backed up;
  - (g) ensure that all contracts entered into on behalf of the Fund are lawful and are complied with;
  - (h) ensure that all applicable accounting procedures are followed when acquiring or disposing of goods and services and that, in the case of goods, adequate arrangements are made for their

custody, safe guarding and maintenance;

- (i) bring a matter to the attention of the County Executive Committee Member responsible for health if, in the accounting officer's opinion, a decision or policy or proposed decision or policy of the Fund may result in resources being used in a way that is contrary to subsection (1);
- (j) submit the estimates of the Fund and such relevant data to the Fund Board;
- (k) prepare annual financial statements, to be presented to the Auditor-General for audit, not later than three (3) months after the end of each financial year;
- (l) try to resolve any issues resulting from an audit that remain outstanding;
- (m) manage the assets of the Fund to ensure that it receives value for money when acquiring, using or disposing of its assets;
- (n) dispose of assets at the most competitive price and at the lowest possible cost ensuring that the proceeds from all asset disposals are deposited in the bank account;
- (o) ensure that the Fund has adequate systems and processes in place to plan for, procure, account for, maintain, store and dispose of assets, including an asset register that is current, accurate and available to County Treasury and the Auditor-General;
- (p) provide the County Treasury with any information it requires to fulfill its functions;
- (q) provide information on any fraud, losses, or any violations of subsection (1) and provide explanations for the actions taken to prevent similar conduct in future; and
- (r) carry out such other responsibilities as may be specified in regulations by the County Executive Committee Member responsible for finance.

8. (1) The expenditure incurred on the Fund shall be on the basis of and limited to annual work programmes and

Expenditure from the Fund

cost estimates which shall be prepared by the administrator of the Fund, and approved by the Board at the beginning of the financial year to which they relate.

(2) Any revision of the approved annual work programme, and of any cost estimate, shall be referred to the Board for approval.

(3) The Board shall—

- (a) authorize payments out of the Fund on the basis of quarterly budgets approved by Hospitals Boards, Sub-County hospital Boards and Health Facilities Committees; and
- (b) ensure equitable sharing of monies appropriated by the County Assembly for operational needs of the hospitals, Sub-County hospitals and health facilities.

(4) All disbursements from the Fund shall be approved and recorded in the minutes of the Fund Board.

(5) The record of the amounts received by each hospital, Sub-County hospital and health facility and the record of expenditure of amounts so received shall be submitted to the Fund Board within thirty (30) days after the close of the relevant financial year, together with a copy of the relevant bank statements.

(6) No disbursements for the succeeding financial year shall be made into the accounts of the hospitals, Sub-County hospitals and health facilities until the records referred to under subsection (5) are duly received.

(7) The in-charge of each hospital, Sub-County hospital and health facility shall be responsible to the Fund Board in submitting the records referred to under subsection (5).

(8) The Fund Board may impose reasonable requirements, including restrictions, on a particular hospital, Sub-County hospital or health facility and such restrictions or requirements shall be reported together with the monthly returns to be submitted to the Fund Board.

9. (1) At the end of each financial year, the Fund Administrator shall prepare financial statements in respect of the Fund in a format to be prescribed by the Accounting

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Standards Board.

(2) The Fund Administrator shall include in the financial statements—

- (a) appropriation accounts, showing—
  - (i) the services for which the appropriated money was spent;
  - (ii) the amounts actually spent on each service;
  - (iii) a statement explaining any variations between the actual expenditure and the sums voted; and
  - (iv) any other information specified by the County Treasury;
- (b) a statement of the Fund's debt that is outstanding at the end of the financial year;
- (c) a statement of the Fund's assets and liabilities as at the end of the financial year;
- (d) a statement of the accounting policies followed in preparing the financial statement;
- (e) a statement of the Fund's performance against predetermined objectives;
- (f) the number of beneficiaries aggregated in accordance to the number of the facilities;
- (g) challenges faced in the implementation of this Act and mitigation measures taken; and
- (h) any other matter as may be directed by the County Executive Committee Member responsible for finance.

(3) The Fund Administrator shall upon preparing the reports of the Fund as provided for under subsections (1) and (2) above present the same to the Fund Board for consideration and approval.

(4) The report referred to under subsection (3) above shall be presented to the Fund Board before the period referred to under subsection (4) below.

(5) Not later than three (3) months after the County Assembly has adopted the report of the Controller of Budget as presented by the responsible committee of the

County Assembly under Article 228 (6) of the Constitution, the Fund Board shall—

- (a) prepare a report on actions taken by the Fund Administrator to implement any recommendations made by the County Assembly; and
- (b) submit the report to the County Assembly with a copy to the County Treasury and the County Facilities Improvement Board.

(6) Not later than one month after receiving the report under subsection (3), the County Treasury shall submit to the County Assembly the said report which may include its comments.

(7) The reports referred to in subsection (3) shall be published and publicized.

**10.** (1) The Fund Administrator shall prepare a report for each quarter of the financial year in respect of the Fund.

Quarterly reports.

(2) In preparing the quarterly report, the Fund Administrator shall ensure that the report—

- (a) contains information on the financial and nonfinancial performance of the Fund; and
- (b) is in a form determined by the Accounting Standards Board.

(3) Not later than fifteen (15) days after the end of each quarter, the Fund Administrator shall submit a copy of the quarterly report to the Fund Board.

**11.** In the event of winding up of the Fund, the Fund Board shall ensure that the cash balances are transferred to the County Revenue Account whereas other assets of the Fund are transferred to the Department of Health.

Winding up of the Fund.

**12.** Subject to the provisions of the Public Finance Management Act, 2012, existing Government Regulations and Procedures shall apply to the administration of the Fund.

Application of National legislation

**13.** (1) There is established the Nandi County Facilities Improvement Fund Board.

Establishment of the Fund Board.

- (2) The Board Shall comprise of Eleven (11) members

as follows—

- (a) A chairperson appointed by the Governor Nandi County from three nominees recommended by the CEC member for Health and Sanitation
- (b) The county executive for the time being responsible for matters relating to health services or his/her representative duly nominated by him/her in writing.
- (c) the Chief Officer and accounting officer of the Department for the time being responsible for health services;
- (d) the County Director of Health Services, who shall be the Secretary of the Board;
- (e) the Fund Administrator who shall be an *ex-officio* member of the Board;
- (f) the Chief Officer for the time being responsible for matters relating to finance or his/her representative duly nominated in writing;
- (g) County Hospital Medical Superintendent;
- (h) a member of the public nominated from health non-governmental organization networks in the County appointed by the Governor;
- (i) a member of the public nominated from religious hospital associations or networks in County appointed by the Governor;
- (j) a member of the public appointed by the Governor by virtue of his/her knowledge or experience in financial management of public resources;
- (k) County Health Director, Finance and Planning.

(3) The County Executive Committee Member shall ensure provision of such public officers as may be necessary for the effective functioning of the Fund Board.

(4) The quorum at any meeting of the Fund Board shall be seven (7) members and the Board shall meet not less than four times in each financial year.

(5) The Executive Committee Member shall cause

the names of chairperson and members of the Fund Board to be published in the Gazette at least 30 days after their appointment.

(6) The County Executive Committee Member may make regulations to give full effect to this section.

**14. (1) The Fund Board shall—**

- (a) provide overall design and oversight of the Fund;
- (b) consider, verify and approve funding to hospitals and health facilities;
- (c) ensure equitable distribution of resources to the hospitals and health facilities;
- (d) review and approve disbursements or utilization of the Fund;
- (e) advise the County Executive Committee Member on the appropriate guidelines and procedures for better management of the Fund;
- (f) consider and approve funding for preventive and promotive health services;
- (g) receive reports on the performance of the Fund from its management committee which the Fund Administrator shall be a member of;
- (h) develop relevant guidelines and review them as need arises, to guide the operations and implementation of the Fund;
- (i) develop and facilitate sectoral linkage on the Fund;
- (j) monitor and evaluate programs and activities under the Fund;
- (k) prepare an annual report on the operations and performance of the Fund to the County Executive Committee Member;
- (l) impose conditions on expenditure authorized by the Fund Board including imposing any reasonable prohibition, restriction or other requirement concerning expenditure from the Fund;

Functions of the  
Fund Board.

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(6) The County Executive Committee Member may make regulations to give full effect to this section.

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- (b) consider, verify and approve funding to hospitals and health facilities;
- (c) ensure equitable distribution of resources to the hospitals and health facilities;
- (d) review and approve disbursements or utilization of the Fund;
- (e) advise the County Executive Committee Member on the appropriate guidelines and procedures for better management of the Fund;
- (f) consider and approve funding for preventive and promotive health services;
- (g) receive reports on the performance of the Fund from its management committee which the Fund Administrator shall be a member of;
- (h) develop relevant guidelines and review them as need arises, to guide the operations and implementation of the Fund;
- (i) develop and facilitate sectoral linkage on the Fund;
- (j) monitor and evaluate programs and activities under the Fund;
- (k) prepare an annual report on the operations and performance of the Fund to the County Executive Committee Member;
- (l) impose conditions on expenditure authorized by the Fund Board including imposing any reasonable prohibition, restriction or other requirement concerning expenditure from the Fund;

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- (m) institute prudent measures for the proper utilization of monies deposited in to the Fund using suitable internal controls and appropriate mechanisms for financial accountability such as audit of accounts;
- (n) oversee the management and administration of the Fund; and
- (o) put in place necessary mechanisms for sanctions and their enforcements in case of mismanagement of funds.

(2) Members of the Fund Board shall serve the Board on part-time basis.

**15.** (1) The Fund Board—

- (a) is responsible for the management of the Fund's assets and liabilities; and
- (b) shall manage those assets in such a way as to ensure that the Fund achieves value for money in acquiring, using or disposing of those assets.

Management of assets and liabilities of the Fund.

(2) The Fund Board shall dispose of assets only in terms of the public procurement Regulation 2020 , Public Procurement and Disposal Act, 2015, and pursuant to Article 227 of the Constitution, and shall ensure that the proceeds from all asset disposals are credited into the Fund Account.

**16.** (1) The Fund Board shall, for the effective discharge of its functions, establish committees.

Committees of the Fund Board

(2) The Fund Board may co-opt into the membership of a committee established under subsection (1), any person whose knowledge and skills are considered necessary for the effective discharge of its functions.

**17.** (1) The Fund Board may, where appropriate and in writing, delegate any power or assign any duty conferred on it under this Act to the Fund Administrator, the County Executive Committee Member or committees of the board.

Delegation of powers and functions

(2) A delegation or assignment under subsection (1) shall not prevent the Fund Board from exercising the power in question.

- (3) A delegation under this section—
- (a) shall be subject to any conditions the Fund Board may impose;
  - (b) shall not divest the Fund Board of its responsibilities concerning the exercise of the powers or the performance of the duty delegated; and
  - (c) may be withdrawn, and any decision made by the person to whom the delegation is made, be withdrawn or amended by the Fund Board.

**18.** (1) The conduct and regulation of the business and affairs of the Board shall be as set out in the Schedule and shall be in accordance with this Act.

Conduct of business and affairs of the Fund Board.

(2) Except as provided in the Schedule, the Board may regulate its own procedures.

### **PART III — HOSPITAL MANAGEMENT BOARDS AND HEALTH FACILITY MANAGEMENT COMMITTEES**

**19.** (1) There is established a hospital management board for each county hospital.

County hospital management boards.

(2) The Board shall consist of seven (7) members who shall be—

- (a) a member of the public appointed by the County Executive Committee Member and who shall be the chairperson of the board;
- (b) the area Sub-County Administrator as an *ex-officio* appointed under Section 50 of the County Governments Act, 2012;
- (c) the medical superintendent who, shall be the secretary;
- (d) a member of the public with knowledge and experience on health matters appointed by the County Executive Committee Member;
- (e) three (3) members of the public who shall be residents of the area of jurisdiction of the hospital, appointed by the County Executive Committee Member representing the following

categories of persons—

- (i) a person who shall have knowledge and experience in finance and administration matters; and
- (ii) two (2) people representing persons from the following special interest groups namely, people living with disabilities, youth or women.

(3) Membership of the County hospital management board shall respect and reflect the diversities in the County.

(4) At least one third of the membership of the County hospital management board shall be from the opposite gender.

(5) The County Executive Committee Member shall cause the names of chairperson and members of the County hospital management board published in the Gazette at least 30 days after their appointment.

**20.** (1) There is established a hospital management board for each Sub-County hospital.

Sub-County hospital  
management boards

(2) The Board shall consist of seven (7) members who shall be—

- (a) a member of the public appointed by the County Executive Committee Member who shall be the chairperson of the board;
- (b) the area sub-county administrator *as an ex-officio* member appointed under Section 50 of the County Governments Act, 2012;
- (c) the facility in-charge who shall be the secretary to the Sub-County hospital board;
- (d) a member of the public with knowledge and experience on health matters appointed by the County Executive Committee Member;
- (e) three (3) members of the public who shall be residents of the area of jurisdiction, appointed by the County Executive Committee Member representing the following categories of persons—
  - (i) one person who shall have knowledge

and experience in finance and administration matters; and

- (ii) two (2) people representing persons from the following special interest groups namely, people living with disabilities, youth or women.

(3) Membership of the Sub-County hospital management board shall respect and reflect the diversities in the County.

(4) At least one third of the membership of the hospital management board shall be from the opposite gender.

(5) The County Executive Committee Member shall cause the names of chairperson and members of the Sub-County hospital management board published in the Gazette at least 30 days after their appointment.

**21.** (1) The County and Sub-County hospital management boards shall—

Functions of hospital management boards.

- (a) be responsible for the supervision of the funds allocated to the respective hospitals;
- (b) open and operate bank accounts at a banks to be approved by the County Treasury;
- (c) recommend activities to be included in the hospital work plans based on the County health sectoral and strategic plans;
- (d) cause to be kept books of accounts and records of accounts of the income, expenditure, assets and liabilities of the hospitals as directed by the Chief Officer;
- (e) cause prescribed monthly, quarterly and annual financial reports to be prepared and submitted to the Fund Board; and
- (f) cause to be kept records of all its deliberations.

(2) The reports referred to under subsection (1) (e) shall be addressed to the secretary of the Fund Board.

**22.** (1) The hospital management boards may, for the effective discharge of their functions, establish committees.

Committees of the hospital management boards.

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(2) The composition and membership of the committees established under subsection (1) shall be determined by the chairpersons of the boards, in consultation with the Chief Officer.

(3) There are established the following committees—

- (a) executive committee;
- (b) finance and general purpose committees ;
- (c) quality of Facilities Improvement committee;
- (d) commodity quality Assurance Committee; and
- (e) special and ad hoc committee.

(4) Without prejudice to the generality of subsection (3), the executive committee membership shall consist of—

- (a) chairpersons of the hospital management boards;
- (b) chairpersons of finance and general purpose committees; and
- (c) secretaries of the hospital management boards.

(5) The functions of the executive committee shall be to—

- (a) prepare the agenda for the meetings of the boards;
- (b) advise the boards on matters related to their functions; and
- (c) make recommendations for consideration by the hospital management boards.

(6) Finance and general purpose committee membership shall be not more than five (5) members whereas two (2) members shall be members of the hospital management boards and three (3) members shall be officers from the following hospital departments, laboratory, pharmacy and a representative of in and out patient departments.

(7) The finance and general purpose committee referred to in subsection (6) above shall elect a chairperson from among themselves.

(8) The functions of the finance and general purpose

committee shall be to—

- (a) review the County and Sub-County hospital budgets;
- (b) review fiscal management policies and practices of the County and Sub-County hospitals over their assets and liabilities;
- (c) make recommendations to their respective boards; and
- (d) perform any other function as directed by the hospital management boards.

(9) The quality of facilities improvement committee shall comprise of not more than five (5) members with at least two (2) from the hospital management boards and the three (3) other members from the following hospital departments, Public Health, Human Resource and other department.

(10) The quality health services committee shall elect a chairperson from amongst its membership.

(11) The functions of the quality facilities improvement committee shall be to—

- (a) establish and maintain a hospital quality improvement program;
- (b) review the hospital quality assessment reports;
- (c) make recommendations to the hospital management boards; and
- (d) to perform any other function as may be assigned to them by the hospital management boards.

(12) The chairperson of the hospital management boards may constitute a special and ad hoc committee to—

- (a) deal with any urgent matters; or
- (b) assist the boards in any specific issues pertaining to their responsibilities.

23. (1) The responsibilities of the chairperson of the County and Sub-County hospital management boards shall be—

Functions of the chairperson and secretary of the management boards

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- (a) overseeing all committees of the Board;
- (b) setting schedules of meetings in consultation with the secretary;
- (c) presiding over the board meetings; and
- (d) to perform any other duty as may be assigned by the County Executive Committee Member, the Chief Officer or the Fund Board.

(2) The secretary to the County or Sub-County hospital management boards shall—

- (a) keep records of their deliberations;
- (b) communicate their decisions to the relevant authorities and offices; and
- (c) implement decisions of the boards.

**24.** (1) A person shall not be eligible for appointment as a chairperson of the County or Sub-County hospital management board unless that person—

Qualifications,  
appointment,  
quorum, tenure, etc.

- (a) holds a degree from a university recognized in Kenya;
- (b) has demonstrated high level of integrity and leadership at senior level either in public or private sector;
- (c) meets the requirements of Chapter Six of the Constitution; and
- (d) is not serving as a State or public officer.

(2) A person shall not be appointed as a member of a board under this Part unless that person holds at least an O-level certificate of education or its equivalent.

(3) A member of a board, apart from members who are county public officers, shall hold office for a period of three (3) years and may be eligible for re-appointment for a further term on a two-term service.

(4) The boards shall meet at least four (4) times in every financial year and shall maintain records of their deliberations.

(5) Copies of deliberations and records in referred to under subsection (4) above shall be forwarded to the Fund

Board not more than one (1) month after such board meetings.

(6) The quorum of the boards shall be a four.

(7) The County and Sub-County management boards established under this Part shall be responsible to the County Chief Officer for the execution of their functions under this Act.

25. (1) There is established a health management committee in each health centre and dispensary in the county.

Health management committees.

(2) The health management committee shall consist of nine (9) members appointed as follows—

- (a) a ward administrator in the area of jurisdiction who shall be an *ex-officio* member;
- (b) the officer in charge of the health facility, who shall be the secretary of the committee;
- (c) the area chief or assistant chief who shall be an *ex-officio* member;
- (d) a member of the public representing religious or faith based organisations;
- (e) five (5) members of the public who are residents of the area of jurisdiction of the dispensary or health facility, appointed by the County Executive Committee Member as follows—
  - (i) one person who shall have knowledge and experience in finance and administration matters; and
  - (ii) three (3) people representing persons from the following special interest groups namely, people living with disabilities, youth and women.

(3) The health management committees shall elect a chairperson from amongst their respective membership.

(4) The chairperson appointed under subsection (3), shall not be an *ex-officio* member.

(5) A person shall not be qualified to be appointed as a chairperson of the health management committee

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unless that person has post-secondary certificate.

(6) Members of the committees, other than members who are County public officers, shall hold office for a period of three (3) years and shall be eligible for re-election for a further term.

(7) Health management committees may, if necessary, constitute sub-committees from their memberships to carry out specific functions assigned to them by the committees.

(8) Health management committees shall meet four (4) times in each financial year and shall keep and maintain records of their deliberations.

(9) The quorum for the meeting of the health management committees shall be five (5) members.

(10) Health management committees shall be responsible to the County Executive Committee Member.

**26.** The health management committees shall—

Functions of the health management committees

- (a) supervise and control the administration of the funds allocated to the dispensaries and health facilities;
- (b) open and operate a bank account at a bank approved by the County Treasury;
- (c) cause dispensaries and health facilities work and procurement plans to be prepared;
- (d) cause books and records of accounts of the income, expenditure, assets and liabilities of the facilities to be kept as directed by the Fund Administrator;
- (e) prepare and submit prescribed and certified periodic financial and performance reports; and
- (f) cause records of all its deliberations to be kept.

**PART IV— FINANCIAL PROVISIONS**

**27.** (1) At the end of each quarter, the responsible health facilities will prepare a quarterly budget, quarterly implementation and procurement plan.

Submission and approval of budgets

(2) The quarterly budget referred to in subsection (1) shall, where appropriate, indicate how much resources the health facility has raised to finance their quarterly

budget as well as their deficits.

(3) The budget together with quarterly implementation and quarterly procurement plan shall be submitted to the hospital management boards or health management committees for approval.

(4) The approved budgets shall then be submitted to the Fund Board, addressed to the secretary of the Fund Board, for consideration and approval.

(5) Upon approval of the budgets by the Fund Board, the Fund Administrator shall prepare payment instruments intended for actual release of moneys from the Fund pursuant to section 6 (5) as read with section 8 of this Act.

(6) The payment instruments referred to in subsection (5) shall include authority to incur expenditure by the various health facilities.

(7) The approved funds shall be disbursed to the health facilities not more than fourteen (14) days after appropriate documentation has been submitted to the Fund Board and proper approvals by the Fund Board have been issued.

(8) All the spending units shall prepare monthly, quarterly and annual financial reports in a prescribed format to be forwarded to the Fund Board for consolidation and further action as prescribed under this Act.

**28.** The disbursements made to health facilities by the Fund Board shall be on the basis of, and limited to, the annual allocations, grants and authority-to-incur-expenditure for that financial year.

Allocations to health facilities.

**29.** (1) At least three (3) months before the commencement of each financial year, the Fund Administrator shall cause to be prepared estimates of the revenue and expenditure of the Fund Board, boards and committees for that year.

Annual estimates.

(2) The annual estimates shall make provision for all the estimated expenditure for the financial year concerned and, in particular, shall provide for—

- (a) payment of remuneration or allowances in respect of the members and staff of the various boards and committees;

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- (b) maintenance of the buildings and hospital implements and facilities;
- (c) funding of training, research and development of activities of the boards and committees;
- (d) allocation of funds to meet future or contingent liabilities in respect of benefits, insurance or replacement of buildings or installations, equipment and in respect of such other matters as are necessary and justifiably prudent; and
- (e) any other expenditure necessary or purposes of this Act.

(3) The annual estimates herein shall be approved by Fund Board before the commencement of the financial year to which they relate and shall be submitted to the County Executive Committee Member for consolidation with the Departmental annual estimates and tabling at the County Assembly.

(4) Notwithstanding the provisions of subsection (3) above, annual estimates specific to the activities of the Fund Board shall be considered and approved by the County Executive Committee Member, and thereafter, such annual estimates shall be consolidated with the Departmental annual estimates and tabled at the County Assembly.

**30.** The financial year shall—

Financial year

- (a) in the first instance, be the period commencing on the day on which this Act comes into operation and ending on the thirtieth day of June of the subsequent year; and
- (b) subsequently, be the period of twelve months commencing on the first of July and ending on the thirtieth of June.

**31.** (1) Notwithstanding the provisions of this Act, the Chief Officer shall be responsible for causing to be kept all proper books and records of account of the income, expenditure, assets and liabilities under this Act.

Accounts and audit

(2) The annual account reports shall be prepared, audited and reported upon in accordance with the

provisions of Articles 226 and 229 of the Constitution of Kenya, 2010, and the laws of Kenya relating to public audit.

**32.** (1) Each hospital, primary health facility or revenue collection point shall operate a bank account in its own name pursuant to sections 21 (1) (b) and 26 (b) of the Act relating to the County and Sub-County hospital management boards and the health management committees, respectively.

Opening and operating health facilities bank accounts.

(2) Notwithstanding the provisions of subsection (1), a bank account as approved by the County Treasury, shall be opened for public health services in each Sub-County.

(3) There shall be three (3) mandatory signatories to the bank accounts specified under sub sections (1) and (2) as follows—

- (a) with respect to hospitals including referral hospitals—
  - (i) the medical superintendent;
  - (ii) the Health Administrative Officer; and
  - (iii) the Hospital accountant.
- (b) in respect of primary health facilities—
  - (i) the chairperson of the health facility;
  - (ii) the treasurer of the health facility; and
  - (iii) the officer in-charge of the primary health facility.
- (c) with regards to public health services—
  - (i) the Sub-County public health officer;
  - (ii) the Sub-County medical officer of health; and
  - (iii) the Sub-County health administrative Officer.
- (d) with respect to County Health services;
  - (i) County Director Health Services
  - (ii) County Director Health Administration, Finance and Planning
  - (iii) County Health Administrative Officer
- (4) The County Executive Committee Member

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responsible for matters relating to finance may issue regulations for the better carrying out of this section.

33. Where funds have been disbursed to hospital management boards and committees to support the ambulance services facilitating referral of clients in disasters and emergencies of a large magnitude, the officer responsible for ambulance emergency services shall prepare claims by hospitals involved in provision of the emergency services for reimbursement by the Fund Board. Funds for emergency purposes

**PART V — MISCELLANEOUS PROVISIONS**

34. Allowances for members of the various boards and committees, including the Fund Board members shall be defrayed from the resources of the Fund in accordance with regulation and direction provided for by the Salaries and Remuneration Commission. Allowances

35. Nothing done by the accounting officer, chairperson, member of the board or by any person working under the instructions of the Fund Board or the County Executive Committee Member shall, if it is done in good faith for the purpose of executing the powers, functions or duties of this Act, render such member or officer personally liable for any action, claim or demand. Protection from personal liability

36. The County Executive Committee Member shall within one year of coming into force of this Act prescribe, publish and publicize a code of conduct to guide the operations and conduct of chairpersons, members, and any other person assigned a task under this Act. Code of conduct

37. A person who contravenes any of the provisions of this Act commits an offence, and shall on conviction be liable to a fine not exceeding three million shillings or to imprisonment for a term not exceeding three years, or to both. Offences and general penalty

38. (1) The County Executive Committee Member shall facilitate, supervise and oversee the operations of the Fund Board in the implementation of the Fund, and in particular, shall— Regulations

- (a) issue regulation relating to the allocation formula of distribution of resources and funds to hospitals and health facilities;

- (b) regulate the conduct of persons subject to the provisions of this Act; and
- (c) issue other regulation for the better carrying out of the provisions of this Act.

(2) Notwithstanding the provisions of subsection (1), the County Executive Committee Member responsible for matters relating to finance shall—

- (a) develop policy measures relating to the Fund; and
- (b) make regulations to give effect to the objects of the Fund.

**39.** (1) The health management boards and committees established previously shall stand automatically disbanded within 30 days of coming into the operation of this Act and shall be reconstituted, pursuant to this Act, within one month.

Transition and savings.

(2) Legal Notice No. 155 of 16 October 2009 ceases to apply with respect to hospital management boards, in so far as their composition and membership refers:

Provided that such guidelines as to conduct of meetings, that are not specifically provided for under this Act, shall remain in force until such time as the County Executive Committee Member formulates such Regulations.

**SCHEDULE****PROVISIONS AS TO THE CONDUCT OF BUSINESS AND  
AFFAIRS OF THE COUNTY FACILITIES IMPROVEMENT  
FUND BOARD***Board meetings*

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

(2) Notwithstanding the provisions of sub paragraph (1) above, the chairperson may, and upon requisition in writing by at least four (4) members, shall convene a special meeting of the Board at any time for the transaction of the business of the Board or Committee.

(3) At least fourteen (14) days' written notice of every meeting of the Board shall be given to every member of the Board by the secretary.

(4) The chairperson shall preside at every meeting of the Board at which he/she is present, but in his/her 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 Board shall be by a majority of votes of the members present and voting.

(6) In the case of an equality of votes, the chairperson or the person presiding as chairperson under subsection (4) shall have a casting vote.

(7) No proceedings of the Board shall be invalid by reason only of a vacancy among the members thereof.

*Conflict of interest*

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

(2) A member of the Board shall be considered to have a conflict of interest for the purpose 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 Board.

(3) Where the chairperson of the Board becomes aware that a member has a conflict of interest in relation to any matter before the Board, the chairperson 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 conflict of interest, he/she shall, in addition to complying with the other provisions of this section, disclose the conflict that exists to the Board and the same shall be recorded.

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

(6) Where the Board determines that the conflict is likely to interfere significantly with the member's proper and effective performance, the members shall resign unless the member has eliminated the conflict to the satisfaction of the Board within thirty (30) days.

(7) The Board shall report to the County Executive Committee Member any determination by the Board that a conflict is likely to interfere significantly with its performance and whether or not the conflict has been eliminated to the satisfaction of the Board.

(8) The annual report of the Board shall disclose details of all conflicts of interest and determinations arising during the period covered by the report.

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

(10) A member of the Board who fails to declare conflict of interest where such is the case commits an offence and shall be punished as provided for under section 37 of this Act.

*Code of conduct.*

3. The Board shall comply with the code of conduct governing public officers and provisions of Chapter Six of the Kenya Constitution.

*Minutes of the meeting.*

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