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SIAYA COUNTY ACTS, 2019

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CONTENT

Act —	PAGE
The Siaya County Health Services Act, 2019	1

THE SIAYA COUNTY HEALTH SERVICES ACT, 2019

ARRANGEMENT OF SECTIONS

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Section

PART I – PRELIMINARY

- 1— Short title
- 2— Interpretation
- 3— Purpose of the Act
- 4— Principles of Health Services Delivery

PART II – HEALTH SERVICES MANAGEMENT

- 5— Functions of the Department
- 6— Administration of the Act
- 7— Establishment of the Office of the County director public Health and Sanitation
- 8— Establishment of the office of the Director Medical and Biomedical Engineering Services
- 9— Human Resources for Health
- 10— Establishment of Health Facilities
- 11— Classification of County Health Facilities
- 12— Governance of County Health facilities hospital boards
- 13— Functions of the Board
- 14— Committee of a Health Centre and Dispensary
- 15— Management of county health facilities
- 16— Operational Guidelines and Standards for Administration of a Health Facility

PART III – HEALTH SERVICE DELIVERY

- 17— Requirement for Health Services Delivery System
- 18— Cooperation and Collaboration
- 19— Right of Health Care Personnel

- 20 – Duties of Health Care Personnel
- 21 – Rights and Duties of a Patient
- 22 – Confidentiality
- 23 – Consent
- 24 – Supervision of Health facilities in the County

PART IV – HEALTH OUTCOMES AND STRATEGIES

- 25 – Health Outcomes
- 26 – Disease management, prevention and control

PART V – COUNTY HEALTH PLANNING AND MANAGEMENT

- 27 – Health Strategic and Investment Plans
- 28 – Planning Units
- 29 – Specialized Units
- 30 – County Health Management Team
- 31 – Sub County Health Management Team
- 32 – Health Information System
- 33 – Quality and Improvement Unit
- 34 – Research and Development
- 35 – Certification of Quality Management System
- 36 – Medical Supplies
- 37 – Complaints Management
- 38 – Health Service Performance Report
- 39 – County health Sector Stakeholder Forum
- 40 – Supervision of health facilities in the County

PART VI – FINANCIAL PROVISION

- 41 – Financing of health facilities
- 42 – Procurement

PART VII – GENERAL PROVISION

- 43 – Health Policies
- 44 – Regulations

- FIRST SCHEDULE** — CLASSIFICATION OF COUNTY HEALTH FACILITIES
- SECOND SCHEDULE** — PROVISION AS TO THE COMPOSITION AND ROLES OF THE HOSPITAL BOARDS AND HEALTH CENTRE OR DISPENSARY MANAGEMENT COMMITTEES
- THIRD SCHEDULE** — CONDUCT OF BUSINESS AND AFFAIRS OF THE HOSPITAL BOARDS AND HEALTH CENTRE OR DISPENSARY MANAGEMENT COMMITTEES
- FOURTH SCHEDULE** — PROVIDES FOR REMUNERATION OF HOSPITAL BOARDS
- FIFTH SCHEDULE** — PROVIDES FOR THE POLICIES AND REGULATIONS TO BE DRAFTED BY THE CECM IN CHARGE OF HEALTH SERVICES UPON THE ENACTMENT OF THIS ACT

THE SIAYA COUNTY HEALTH SERVICES ACT, 2019

AN ACT of the County Assembly of Siaya to give effect to Article 43 (1) (a) of the Constitution and provide for implementation of Section 2 of Part 2 of the Fourth Schedule to the Constitution on County Health Services and for connected purposes

ENACTED by the County Assembly of Siaya as follows—

PART I—PRELIMINARY

Short title

1. This Act may be cited as the Siaya County Health Services Act, 2019.

This Act shall be operationalized immediately after publishing unless otherwise stated in specific sections.

Interpretation

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

“Board” means the Board of hospital established under Section 12;

“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 specialized units. Such standards will be in accordance with nationally accepted norms and standards including best practices.

“Chief Officer” means the Chief Officer responsible for county health services.

“Committee” means the Committee of health center or dispensary established under section 14.

“County Assembly” means the County Assembly of Siaya.

“Director Public Health and Sanitation” means the County Director responsible for County Public Health and Sanitation Services established under section 7.

‘Director Medical and biomedical engineering services’ means the technical head of the services and functions of the directorate of medical and biomedical engineering services’ established in section 8.

“health management team” means the County Health Management Team established under section 30 and the sub county health management team established in section 31.

“Health Sector Stakeholders Forum” means the County Health Sector

Stakeholders Forum established under section 39;

“Department” means the department responsible for county health services.

“Emergency treatment” refers to necessary immediate health care that must be administered to prevent death or worsening of a medical situation.

“executive member” means the County Executive Committee Member responsible for county health services.

“Health facility” for the purposes of this Act means a health facility as the whole or part of a public, faith -based or private institution, building or place, whether for profit or not, that is operated or designed to provide in-patient or out-patient treatment, diagnostic or therapeutic interventions, nursing, rehabilitative, palliative, convalescent, preventative or other health services.

“Health in all sector policies approach” means, public policies across sectors that systematically takes into account the health implications of decisions, seeks synergies, and avoids harmful impacts, in order to improve population health and health equity.

“Facility In - charge” refers to an officer who plans, directs or coordinates medical and health related services in the hospital.

“Medical supplies” refers to and includes products or materials used in the delivery of health care services namely pharmaceuticals, non - pharmaceuticals, nutraceuticals, vaccines, food and food supplements and therapeutic antisera, medical equipment and devices, medical appliances and materials, health technologies, laboratory supplies and reagents, dental materials, hospital consumables, and any other material or equipment as may be necessary for the delivery of health care services in the county.

Purpose of the Act

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 of Kenya 2010 on the functions and powers of County Governments, and to provide for a legal framework for—

- (a) health for development, as per Vision 2030 and beyond, to recognize the effect of other sectors on health;
- (b) promoting utilization of health, nutrition and responsive caregiving services ;
- (c) facilitating realization of consumer health rights in accordance with Article 43 of the Constitution; and

- (d) facilitate health systems strengthening in accordance to six pillars of health as per World Health Organizations' World Health Report.

Principles of health service delivery

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

- (a) the County Health department will adopt the Primary Health care approach and principles. Health services shall be available, accessible, acceptable, affordable, equitable and of good quality and standard;
- (b) health rights of individuals shall be upheld, observed, promoted and protected;
- (c) provision of health services shall focus on strengthening health systems to improve health outcomes;
- (d) a 'Health in all sector Policies' approach will be applied in implementation of this Act. The CECM for Health services will develop a policy six months after the commencement of this act to facilitate the execution of this approach.

PART II —HEALTH SERVICES MANAGEMENT

Functions of the Department

5. The Department responsible for County Health Services shall—

- (a) co-ordinate the provision of preventive, promotive, curative, rehabilitative and palliative health services;
- (b) develop county health policies, strategies, regulations, programs and co-ordinate their implementation as specified in the Act of Rights in the Kenyan Constitution, 2010;
- (c) liaise with regulatory bodies in the enforcement of norms, standards and best health practices;
- (d) co-ordinate implementation of national health policies and laws at the county level;
- (e) co-ordinate public, Faith Based and private sector health programs and systems at the county level;
- (f) ensure compliance with norms and standards for health facilities and health services and training of hospital boards;
- (g) ensure the implementation of rights to health specified in the

Bill of Rights, and more particularly the progressive realization of the right of all to the highest attainable standard of health including reproductive health care and the right to emergency treatment;

- (h) develop and implement measures to promote equitable access to health services to the entire population, with special emphasis on eliminating the disparity in realization of the objects of this Act for the minority, special groups, marginalized and disadvantaged populations;
- (i) manage day to day human resources under the Department;
- (j) facilitate capacity building and professional development for health services personnel;
- (k) promote public private partnership for progressive achievement of the right to health;
- (l) oversee the management and governance of county health facilities and facilitating their development;
- (m) license and control undertakings that sell food to the public;
- (n) control the management of cemeteries, funeral homes and crematoria;
- (o) develop county policies and laws for control of health risk factors and initiating relevant mitigating measures and programs in collaboration with other agencies;
- (p) ensure and coordinate the participation of communities in the governance of health services so as to promote a participatory approach in health care governance;
- (q) facilitate procurement and management of medical and nutrition supplies and commodities;
- (r) develop and manage the county health referral system;
- (s) facilitate registration, licensing and accreditation of health service providers and health facilities in Siaya County respectively according to standards set by the national ministry responsible for health and relevant regulatory bodies;
- (t) coordinate and conduct high quality and ethical research and ensure dissemination of research findings;
- (u) ensure total compliance and adherence to the Environmental Management and Co-ordination Act, 1999;

- (v) provide for the development, strengthening and expansion of a county health Information management system;
- (w) carry out any other function for realization of the purpose of the Act and as may from time to time be assigned by the Executive Committee Member in accordance with the existing county and national legislations and regulations;
- (x) coordinate Waste Management including collection, storage, transportation, refuse treatment and dumping. Persons recruited under this function shall be domiciled in the department of Health Services;
- (y) management and maintenance of medical devises, assets and related health technologies;
- (z) provision of secretariat Services to the County and Sub County Health Management Teams;
- (aa) ensure that every hospital in the County has at least two members of staff trained in sign language interpretation. Furthermore, during the recruitment of personnel, sign language interpretation skill shall be an added advantage.

Administration of this Act

6. The administration of this Act shall be undertaken by the Directorate of Public Health and Sanitation and the Directorate of Medical and Biomedical Engineering Services. The two directorates shall embrace the spirit of collaboration and inter linkages in their operations and performance of their roles.

Establishment of the Office of the County Director Public Health and Sanitation

7. There shall be established an office known as the County Director Public Health and Sanitation within the Siaya County Public Service.

(i) Duties and responsibilities

- (a) The above officer will be answerable to the Chief Officer Health Services for the administration of all the activities in the Public Health Directorate.
- (b) Ensuring Compliance to County, National, International health regulations and rules including the following legislations—
 - (i) Siaya County Food, Drugs and Chemical Substances Act, 2015;

- (ii) The Food Drugs and Chemical Substances Act , Cap. 254;
- (iii) The Public Health Act (Cap. 242);
- (iv) The Siaya County Public Nuisance Act, 2015;
- (v) Tobacco Control Act, 2007;
- (vi) Alcoholic Drinks Act, 2007;
- (vii) Biosafety Act 2009 ;
- (viii) Malaria prevention and control Act, Cap. 246;
- (ix) Meat Control Act, Cap. 35 (6) and any other relevant legislation on public health;
- (c) Coordination of waste management including refuse removal, refuse dumps and solid waste management and disposal;
- (d) Planning and ensuring implementation of promotive and preventive health programs;
- (e) Monitoring, evaluation and liaising with relevant stakeholders in the implementation of public health projects and programs;
- (f) Providing technical advice on promotive and preventive Health;
- (g) Overseeing the development and management of public and private mortuaries, cemeteries and crematoria;
- (h) Provide leadership in research on public health, trends and other emerging issues;
- (i) Mobilizing resources and fostering collaboration and partnerships with inter-county, bilateral and multilateral agencies in support of public health programs;
- (j) Inculcating innovation and modern technology in the provision of public health services;
- (k) Representing the CEC Member for Health in statutory, regulatory, research, standards and other coordinating bodies whenever called upon;
- (l) Developing strategic plans, work plans and budgeting for Public health operations in the County;
- (m) Overseeing capacity building and performance management in the department.

(ii) Requirements for Appointment

- (a) Bachelor Degree in either environmental health or public health or equivalent qualification from a recognized institution;
- (b) At least 10 years relevant professional experience of which at least 3 years in management preferably in public health field;
- (c) Registered with relevant professional body;
- (d) Health promotion and education or equivalent qualifications from a recognized institution.
- (e) Masters Degree in any of the following fields:
 - (i) Environmental Health,
 - (ii) Public Health,
 - (iii) Epidemiology,
 - (iv) Food safety and Quality,
 - (v) Food services and Technology,
 - (vi) Community health,
 - (vii) Occupational health and safety,
 - (viii) Health promotion and education,
 - (ix) Solid waste management or Disaster management from a recognized institution.
- (f) Certificate in strategic leadership development program lasting not less than six weeks from a recognized institution.
- (g) Certificate in basic computer programs from a recognized institutions
- (h) Demonstrated high degree of professional competence and administrative capability required for effective planning, direction control and coordination of the public health function; and
- (i) A thorough understanding of National and County goals, policies and objectives and ability to relate them to the Public Health function and aspirations of Vision 2030.

Establishment of the office of the County Director Medical and Biomedical Engineering Services

8. There shall be established an office known as the County Director of Medical Services within the Siaya County Public Service who shall be

the technical head of the services and functions of the directorate of Medical and Biomedical engineering services.

i) Duties and responsibilities

The Director of Medical and Biomedical Engineering Services shall be answerable to the Chief Officer for Health Services for organization and coordination of Health Services at County level.

The above officer shall be responsible for;

- (a) Planning, coordination, direction and development of health services including curative and rehabilitative services.
- (b) Formulation of policy for operation and development of health services.
- (c) Management of resources for the operations of medical services.
- (d) Planning of health services at County level, administer and manage specified sections.
- (e) Providing professional guidance and training to doctors, dentists and health personnel working under him/her to ensure maintenance of highest standards of health care in the hospitals.

ii) Requirements for Appointment into the Position of Director Medical and Biomedical Engineering Services

- (a) A specialist and having worked in hospital environment for at least 10 years of which at least 3 years in management preferably in medical services field.
- (b) Bachelor's Degree in Health Related Field from a recognized Institution.
- (c) Master's Degree in Health Related Field from a recognized Institution.
- (d) Registered with relevant professional body.
- (e) Has served as a deputy director for a minimum period of three years in his area of specialty.
- (f) Has obtained relevant and approved specialization/qualification in his field from a recognized University.
- (g) Specialist responsibility will entail provision of health services in various disciplines in medical surgery, dentistry and other recognized specialties at the County level.

- (h) Certificate in strategic leadership development program lasting not less than six weeks from a recognized institution.

Human Resources for Health

9. (1) The County Public Service Board shall, in consultation with the County Executive Committee, strengthen the existing norms and standards as envisaged in the devolved Human Resources for Health (HRH), 2015 policy guideline and the subsequent policy documents that shall revise it.

(2) The County Public Service Board shall in consultation with the County Executive Committee Member for Health Services establish offices and appoint such staff under the Department, including county health facilities, in accordance with the County Governments Act, 2012 for implementation of this Act.

(3) Notwithstanding subsection (2), a county health facility may, in consultation with the Chief Officer, recruit staff as are necessary on short term or part-time basis for the purposes of providing essential services and engage employees of the county health department to provide services on locum basis.

(4) The county Department of Health Services shall implement a need-based approach in facilitating health workforce training, recruitment and deployment.

(5) The county may engage volunteers in delivery of health services from time to time guided by the guidelines developed by the County executive Committee Member on volunteerism.

Establishment of Health Facilities

10. (1) there shall be –

- (a) at least one county referral 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 prescribed.

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

Classification of County Health Facilities

11. (1) The classification of county health facilities shall be as set out in the first Schedule.

(2) Each health facility will organize and manage the delivery of expected services based on its level of care as per the Kenya Essential Package for Health (KEPH).

Governance of County Health Facilities Hospital Boards

12. (1) A county referral and a sub county hospital shall be governed by a Board.

(2) The CEC Member for Health Services shall nominate qualified and experienced members of the Board as set out in the second schedule of this Act, from amongst persons competitively sourced and recommended by the County Health Management Team and subsequently forwarded to the County Assembly for approval. The CECM in charge of Health services shall formulate regulations for board operations one year upon the enactment of this Act.

(3) The elected area Member of the County Assembly and Sub County Administrators where the hospital is situated will be co-opted or Ex-Officio member of the Board subject to schedule 2 of the Act.

(4) Upon the approval of the Hospital Board Members by the County Assembly, the Chief Officer for Health Services shall gazette the approved names within 60 days.

Functions of the Board

13. (1) The Board shall be responsible for—
- (a) providing oversight over the administration of the hospital;
 - (b) promoting the development of the hospital;
 - (c) approving plans and programs for implementing county health strategies in the hospital;
 - (d) approving estimates before submission to the Executive Member;
 - (e) supervising and controlling the administration of the funds allocated to the respective hospitals;
 - (f) causing to be kept books of accounts and records of accounts of the income, expenditure, assets and liabilities of the hospital as prescribed by the officer administering the Fund;

- (g) causing to be prepared and submitted to the relevant office monthly, quarterly and annual financial reports as prescribed;
- (h) causing to be kept a permanent record of all its deliberations;
- (i) recommending disciplinary measures and procedures in case of violation of provisions of this Act or any other related laws; and
- (j) carrying out any other function assigned by the Executive Member.

(2) The remuneration of the Board shall be as outlined in schedule 4.

(3) Removal from office—

(1) A person appointed under section 9 and 11, may—

- (a) at any time resign by issuing notice in writing to the Executive Member;
- (b) be removed from office by the Executive Member on the advice of the County Health Management Team and in case of a person appointed under section 12, with the approval of the County Assembly for
 - (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) absence from three consecutive meetings of the Board without the permission of the chairperson;
 - (iv) incompetence;
 - (v) bankruptcy;
- (c) Any board member(s) that ceases to hold office due to any of the above reasons, shall be de-gazetted within 60 days by the Chief Officer for Health Services’

Committee of a Health Center and Dispensary

14. (1) A health Centre or Dispensary shall be governed by a committee appointed by the Executive Committee Member as set out in the second schedule of this Act.

Management of County Health Facilities

15. (1) Subject to sections 9 and 10 —

- (a) The medical superintendent shall be responsible for the day

to day management of a county referral hospital and Sub County hospitals;

(b) The officer in charge of a health center or a dispensary shall be responsible for the day to day management of the health centre or dispensary.

(2) The management of the community health units shall be as prescribed in the National Strategy for Delivery on Level One Services, 2006 or any other relevant national and County policy or legislation.

Operational guidelines and standards for administration of health facility

16. Subject to the national policies, standards and norms, and in consultation with the national government, the Executive Member shall prescribe for operational policies and guidelines for management and administration of a county health facility.

PART III – HEALTH SERVICE DELIVERY

Requirements for Health Service Delivery System

17. The Department and each county health facility shall adapt a health service delivery system as guided by the County Health Policy Framework, County Integrated Development Plans, County Health Strategic and Investment Plans and the Annual Work Plans.

Cooperation and Collaboration

18. The Department shall ensure that there is effective cooperation and collaboration with other county departments and agencies, national government, local & international Partners (development and implementing) and other county governments in delivery of health services.

Rights of Health Care Personnel

19. Healthcare personnel shall have the right to a safe working environment that minimizes the risk of disease transmission and injury or damage to the health care personnel.

Duties of Health Care Personnel.

20. Health care personnel shall have a duty to—

- (a) provide health care, conscientiously and to the best of the personnel's knowledge, within the scope of practice and ability, to every person entrusted to his or her care ;
- (b) inform a patient, in a manner commensurate with his or her

understanding, of his or her health status on—

- (i) the range of available diagnostic procedures and treatment options and the availability and costs thereof;
- (ii) the benefits, risks, costs and consequences which may be associated with each option; and
- (iii) the right of the person to refuse any treatment or procedure.

Rights and Duties of a Patient

21. (1) Every person has the right —

- (a) to the highest attainable standard of health including access to promotive, preventive, curative and rehabilitative health services;
- (b) to be treated with a professional standard of care, by appropriately qualified and experienced staff in a properly approved or registered organization that meets required levels of safety and quality; and
- (c) to be treated with dignity, respect and have their privacy respected in accordance with the Constitution of Kenya, 2010 and this Act.

(2) A patient shall have a duty —

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

Confidentiality

22. (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 health research purposes.

(2) Subject to the Constitution of Kenya, 2010 and this Act, no person may disclose any information contemplated in subsection (1) unless—

- (a) the patient consents to such disclosure in writing in the prescribed form; or
- (b) a court order or any applicable law requires such disclosure; or
- (c) non-disclosure of the information represents a serious threat to public health.

Consent

23. (1) No health service may be provided to a patient without the patient's informed consent or assent in the case of minors unless—

- (a) the patient is unable to give informed consent and such consent is given by a person—
 - (i) mandated by the patient in writing to grant consent on his or her behalf; or
 - (ii) authorized to give such consent in terms of any law or court order;
- (b) the patient is unable to give informed consent and no person is mandated or authorized to give such consent, but the consent is given by the next of kin;
- (c) the provision of a health service without informed consent is authorized by an applicable law or court order;
- (d) the patient is being treated in an emergency situation;
- (e) failure to treat the user, or a group of people which includes the user, will result in a serious risk to public health; and
- (f) 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 health care provider must take all reasonable steps to obtain the user's informed consent.

(3) For the purposes of this section "informed consent" means consent for the provision of a specified health service given by a person with legal capacity to do so and who has been informed.

Supervision of Private Health Facilities in the County

24. (1) Subject to the national policy and standards, the County Executive Committee shall provide and facilitate oversight and supervision over private health facilities and programs operating in the county to ensure compliance with the established standards.

(2) A private health facility described under subsection (1) may either be—

- (a) Faith Based Health Facility; or
- (b) Private for Profit Health Facility; or
- (c) Private 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 granted a business permit or such prescribed county licenses; or
- (b) shall not be granted the annual business permit or relevant county licenses unless it complies with the prescribed policy and standards related to health facilities or pharmacies.

PART IV—HEALTH OUTCOMES AND STRATEGIES

Health Outcomes

25. (1) The Department shall ensure that—

- (a) the provision of health services under this Act shall be aimed at achieving the prescribed health outcomes as stated in the Siaya County health Policy which shall be developed by the department of Health services six months after the commencement of this act; and
- (b) the health outcomes described under subsection (a) shall conform to the national policy, standards, norms and guidelines.

Disease Management Prevention and Control

26. (1) Upon commencement of this Act, the Executive Member shall prepare and submit to the County Assembly and County Executive Committee, an annual health statement providing for —

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

- (c) strategies or interventions being undertaken or that should be undertaken by the county government at the various levels of care in order to reduce disease burden or risk factors or mitigate their impact.

(2) The County health policy framework shall inform the preparation of the periodic five year county health strategic and investment plan under section 27 as well as its implementation.

(3) The Department or a county health facility may collaborate and partner with other counties, government department and agencies, partners and national government in order to control diseases, disease outbreaks, health conditions or health risk factors.

(4) The Department shall prepare the necessary policies, laws and programs for controlling, reducing or mitigating the impact of the health risk factors guided and anchored in the comprehensive county health policy described under sub section (2).

(5) The health risk factors described under this section shall include tobacco consumption, poor sanitation, alcohol and drug use, unsafe sex, physical inactivity among others.

(6) The Executive Member upon the commencement of this Act, shall prepare the health related laws and policies stipulated under the Fifth Schedule.

Primary Health Care

- (7) (1) (a) The community unit, dispensary and health center shall be the basic units of primary health care.
- (b) The Department shall develop and coordinate implementation of primary health care policies and programs as prescribed by World Health Organization and the national policy.
- (c) The Executive Member shall ensure that the each community unit, dispensary and health center is resourced sufficiently in order to enable it provide primary health care.

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

- (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 non-communicable diseases;
- (d) promote and enhance capacity of local communities and individuals for health promotion; and
- (e) support partnerships for health services.

PART V—COUNTY HEALTH PLANNING AND MANAGEMENT

Health Strategic and Investment Plans

27. (1) The county department of health shall prepare periodic five-year County health strategic and Investment plans which shall provide among others for—

- (a) investment in development and maintenance of physical infrastructure in the county health facilities;
- (b) strategies for human resource management and development;
- (c) strategies for controlling key risk factors including, HIV and AIDS, Malaria , Malnutrition, tobacco use, childhood illnesses and alcohol abuse;
- (d) specific and targeted strategies for controlling and mitigating the impact of communicable and non -communicable diseases and conditions as well as injuries prevention;
- (e) adoption and implementation of national policies at the county level;
- (f) strategies for health, nutrition and responsive caregiving promotion;
- (g) strategies for disease surveillance, epidemic preparedness and emergency response;
- (h) strategies for community engagement and action; and
- (i) any other matters as dictated by the county health needs and priorities.

(2) The health strategic and investment plan may provide for specific targeted interventions based on the sub-county, ward or villages as may be appropriate.

(3) The health strategic and investment plan will be operationalized through annual work plans and may be reviewed annually.

(4) The health strategic and investment plan shall be approved by the County Assembly.

Planning Units

28. (1) Each county health facility established under section 10 shall be a planning unit.

(2) Each planning unit shall—

- (a) develop annual work plan which shall be ratified by the respective Board or Committee and approved by the chief officer;
- (b) prepare annual budgetary estimates;
- (c) implement county health policies and programs at the respective levels.

(3) Annual work plans prepared under subsection (2) shall be in accordance with the County health strategic and investment plan prepared under section 27.

(4) Notwithstanding sub-section (1) above each management level shall be a planning unit for the purpose of implementation of this Act.

Specialized Units

29. (1) The Executive Member shall in consultation with the County Executive Committee designate and facilitate establishment of specialized healthcare units in specified county health facilities.

(2) The specialized units shall be established on the basis of disease burden and county specific needs and shall include among others-

- (a) Reproductive, Maternal, Neonatal, Child and Adolescent Nutrition and Health, isolation wards, theatres, Gender Based Violence Units, New born unit, Kangaroo mother care unit, Amenity wards and trauma units.
- (b) Communicable and Non Communicable diseases.
- (c) Mental Health.
- (d) Oncology.
- (e) ICU.
- (f) Renal Unit.
- (g) Therapy and rehabilitation.

(3) The Executive 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) The Executive Member shall ensure that the specialized units—
- (a) are equitably distributed within the county;
 - (b) described under section (2) (a), (b) and (c) are established within five years upon the commencement of this Act; and
 - (c) are established and managed as model specialized units and centres of excellence in their respective areas of specialization.

County Health Management Team

- 30.** (1) There is established County Health Management Team.
- (2) The County Health Management Team shall consist of—
- (a) the County Director of Medical and biomedical engineering Services who shall co- chair with the County Director of Public Health and sanitation;
 - (b) the administrative officer of the Department who shall be the secretary;
 - (c) all the heads of units in the Department at the county, program coordinators and medical superintendent for the County Referral Hospital;
- (3) the county health management team shall be responsible for -
- (a) coordinating, reviewing, monitoring and advising the Health Services Department on implementation of this Act and all health policies in the County;
 - (b) providing supervision and support to the management of all the health facilities in the county and the sub county health management teams;
 - (c) providing leadership and stewardship for overall health management in the county;
 - (d) providing strategic and operational planning, monitoring and evaluation of health service delivery in the county;
 - (e) providing a linkage with the national ministry responsible for health;
 - (f) collaborating with state and non -state stakeholders at the county and between counties in health services;
 - (g) resource mobilization for county health services;
 - (h) implementation, reviewing and establishing functional referral

systems within and between the counties, and between the different levels of the health care system in line with the Siaya County Referral Strategy;

- (i) monitoring quality and compliance assurance;
- (j) coordinating and collaborating through county health stakeholders forum; that is Faith Based Organizations, Non - Governmental Organizations, Civil Society Organizations and development partners;
- (k) facilitating county health facilities in the sub county to comply with the established standards in accordance with section 16;
- (l) consolidation of sub-county quarterly performance reports which shall form the county health services quarterly performance report, which shall feed into the county health services annual performance report under section 36;
- (m) considering and analyzing quarterly audit report from the Sub County Hospital Management Team;
- (n) carrying out any other function as may be assigned by the Executive Member.

(4) The County Health Management Team shall convene at least one quarterly performance review meeting with the sub county health management team.

(5) The Executive Member shall prescribe guidelines for governing operations at the county Health Management Team.

Sub-county Health Management Team.

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

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

- (a) the medical officer in-Charge of the sub county who shall be the chairperson;
- (b) the sub county health administrative officer who shall be the secretary;
- (c) the heads of units in the department at the sub county; and
- (d) any other officer as the CEC Member for Health may designate with the advice of the County Health Management Team.

(3) The sub county health management team shall be responsible for—

- (a) coordinating, monitoring, reviewing and advising on implementation of this Act and other health policies in the sub county;
 - (b) providing supervision and support to the management of the county health facilities in the sub county;
 - (c) carrying out needs and capacity assessment for county health facilities;
 - (d) in consultation with the county health management team, facilitating capacity building of health personnel at the sub county;
 - (e) considering and analyzing audit reports from facilities and forward to the County Health Management Teams;
 - (g) facilitating county health facilities in the sub county to comply with the established standards in accordance with section 26; and
 - (h) carrying out any other function as may be assigned by the Executive Member.
- (4) All Community Units, dispensaries and health centers shall give monthly, quarterly and annual operations report to Sub County Health Management Teams.
- (5) The Sub county health management team shall prepare and submit quarterly reports of its operations to the County Health Management Team.
- (6) The Executive Member shall in consultation with the chief officer and the County Health Management Team prescribe guidelines for governing operations of the Sub County Health Management Team.
- (7) The Sub County Health Management Team shall meet at least once every month.

Health Information System

32. (1) The Department shall establish and maintain an integrated county health information and e- health system that feeds into the national health information system .This system shall apply to all county health facilities and units in the Department.

(2) The Department shall—

- (a) be the repository for county health information, data and statistics;

- (b) receive, collect and collate the prescribed data and information from public, Faith Based Organizations and private health service providers;
- (c) ensure that data and statistics held by the Department are accessible to any member of the public or to any government agency following the appropriate means and procedures while protecting the rights and confidentiality of the clients and patients.

(3) All public, Faith Based Organizations and private facilities must provide monthly, quarterly, annual or any other reports as demanded by the county health department in the prescribed format.

(4) All health facilities shall maintain a health information system specified under subsection (2).

(5) Any county health facility that neglects or fails to comply with the provision of subsection (3) of this section commits an offence and shall be subject to the prescribed disciplinary measures that shall be drafted by the CECM in charge of Health Services one year after the commencement of this Act.

(6) Private and faith based facilities shall ensure compliance with the provision of paragraph (3) as a condition necessary for the grant or renewal of annual operating Licenses and other regulatory and oversight requirements.

Quality and Compliance Assurance Unit

33.(1) There is established in the Department, The Quality and Compliance Assurance Unit

- (2) The Quality and Compliance Assurance Unit shall—
 - (a) be responsible for carrying out inspections and health systems audit in county health facilities in order to ensure compliance with established National standards and quality management systems.
 - (b) conduct once every three years, a comprehensive health systems audit and assessment of each county health facility; and
 - (c) collaborate with the county and sub county health management teams.

(3) The officer in charge of a county health facility shall provide the necessary support and information to the Quality and Compliance Assurance Unit in order to enable it carry out its functions.

(4) An officer who fails to comply with subsection (3) shall be deemed to have breached the code of conduct for county public service and shall be subjected to the existing National or County Policy on such matters.

(5) Subject to section 40, the Quality and Compliance Assurance Unit may conduct inspections and health systems audit in private health facilities.

(6) The Quality and Compliance Assurance 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 or sub county health management team; and
- (b) a report of its operations to the Executive member every six months.

Research and Development

34. (1) The Department shall establish a county health research unit.

(2) The Department shall—

- (a) develop and implement a prioritized county health research agenda in a Consultative manner;
- (b) establish structures for health research coordination including county health research unit, facility research committees among others;
- (c) ensure there is deliberate investment in health research to continually inform evidence-based decisions;
- (d) ensure effective information sharing and dissemination of research findings;
- (e) ensure research conducted and implemented in the County meets and conforms to international scientific standards of quality in its design, implementation, analysis and dissemination;
- (f) ensure an ethical code of conduct for health research in accordance with the Science, Technology and Innovation Act, 2013 or any other relevant National or County legislation or policy ;

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

conducting health research in the county.

Certification of Quality Management System

35. Each health facility will maintain the highest quality level of health service according to nationally and internationally accepted norms and standards.

Medical Supplies

36. (1) The Executive Member for Health shall—

- (a) establish a County Medical Therapeutic Committee/County Commodity Committee for the purpose of commodity Management and Monitoring. The membership shall comprise of among others, Pharmacist, Nursing officer, Nutrition and Dietetics Officer, Medical Laboratory Officer, Environmental Officer, Reproductive Health Officer, HIV/AIDs/Tuberculosis/ Malaria Program officers;
- (b) establish a county essential medicines and medical supplies list as per level of care which shall be reviewed from time to time as may be determined;
- (c) establish a system which ensures that the county essential medical supplies are Available and accessible as per the level of care in each county health facility;
- (c) ensure that the medical supplies are quality-assured and meet the standards prescribed under any written law;
- (d) assess the role played by various stakeholders in reference to medicines and medical supplies in health with a view of establishing a framework of engagement;
- (e) adopt appropriate measures for ensuring cost effectiveness in procurement, supply, storage and distribution systems for essential medicines and medical supplies;
- (f) establish a catalogue of medical equipment with clear technical specifications to guide procurement which may be reviewed from time to time as may be determined;
- (g) ensure that donations of medical supplies meet the national and international standards of quality and safety by relying on advice from the Kenya Bureau of Standards;
- (h) ensure that proper disposal of medical supplies, medical and non-medical equipment is as per the prescribed laws and regulations upon approval by the chief officer in consultation with the

Director Public Health and Sanitation.

Complaints Management.

37. (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 facility.

(2) The Department or a health facility shall establish a system of receiving and addressing complaints raised under this section.

(3) An officer described under subsection (1) shall, within forty eight hours respond to the complaint lodged and take the appropriate action.

(4) A person who is not satisfied with the response provided under subsection (3) may lodge the complaint with the Department and where the complaint relates to the Department, the complaint shall be lodged with the Chief Officer.

(5) The Department or the Chief Officer shall acknowledge receipt of the complaint in writing within forty eight hours and take the appropriate action.

(6) The Department shall prepare and submit a monthly report to the Executive Member on matters related to the complaints lodged under subsection (4) and the actions taken.

Health Service Performance Report

38. (1) The Department shall prepare an annual health service performance report which shall consist of—

- (a) the progress towards the implementation of the health strategic and investment plan prepared under section 27;
- (b) the measures taken to control and mitigate the impact of the health risk factors;
- (c) the disease burden;
- (d) challenges faced in the implementation of the plan and proposed mitigation measures;
- (e) emerging patterns or trends in lifestyle at intra- and/ or inter - county which may negatively impact on health in the County;
- (f) any matter related to the implementation of the health strategic and investment plan;
- (g) any other matter as the Executive Member may require as provided for in any other National or County Policy and

legislation.

(2) The CECM for health services shall Publish and disseminate the report prepared under subsection (1) through the county website and other cost- effective modes of communication and information sharing.

County Health Sector Stakeholders Forum

39. (1) A County Health Sector Stakeholders Forum shall be established consisting of; all departments at the county-government , faith based organizations, nongovernmental organizations, private sector, media, civil societies, special interests groups, institutions of higher learning, research institutions, Semi-autonomous Government Agencies, Community Based Organizations, representatives from among the county residents who are stakeholders in the health sector .

(2) The County Health Sector Stakeholders Forum shall be responsible for—

- (a) policy advocacy and resource mobilization;
- (b) civic education for community empowerment;
- (c) reviewing, monitoring and evaluation of the implementation of the county health policies and programs;
- (d) providing an avenue for joint planning and implementation of health policies and programs under this Act;
- (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 Executive Member guided by existing National/ County Policy or legislation.

(3) The CEC Member for Health Services shall prescribe the conduct of the affairs and business of the forum.

(4) The CEC Member for Health Services shall develop and maintain an inventory of all government, non -governmental and private sector stakeholders stipulated under subsection (1).

(5) The Forum shall meet at least twice in a year.

(6) The department of Health services shall allocate funds for the forum as well as request for partner support to facilitate this forum .

Supervision of Private Health Facilities in the County

40. (1) Subject to the National policy and standards and in consultation with the national government, the Executive 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.

(2) A private health facility described under subsection (1) may either be—

- (a) faith based health facility; or
- (b) for profit private health facility; or
- (c) not for profit private 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 granted a business permit or such prescribed county licenses; or
- (b) shall not be granted the annual business permit or relevant county Licenses unless it complies with the prescribed policy and standards related to health facilities.

PART VI—HEALTH CARE FINANCIAL PROVISIONS

Financing of Health Facilities

This section shall take effect from 1st July, 2019.

41. (1) The following revenues shall be restricted for use by the recipient or targeted health facility—

- (a) grants and donations received from any lawful source;
- (b) such monies received as user charges, fees payable or insurance payments collectable under this Act; or
- (c) any income generated by a health facility from any project initiated by the health facility.

(2) The revenue collected by a health facility shall be utilized only to defray expenses incurred by the health facility as per the approved health budget estimates by the County Assembly;

(3) At the end of the financial year any balance remaining shall be retained by the facility and shall be factored in the following financial year's budget in accordance with section 109 (2)(b) of the Public Finance Management Act, 2012;

(4) Subject to subsection 5 , a county health facility may charge such user charges or fees for the services rendered.

(5) The Executive Member for Health Services in consultation with the County Health Management Team shall prescribe the user charges and fees payable under each county health facility as approved by the County Executive Committee and the County Assembly.

(6) A health facility shall open a bank account into which monies received under subsection (1) shall be paid solely for the purposes of managing and administering the Funds received.

(7) The Funds under this section shall be managed in accordance with the Public Finance Management Act 2012 and quarterly audit reports forwarded to County Health Management Team and or Sub County Health Management Team as the case may apply.

(8) Seventy five percent of the monies received under subsection (41)(1) (b) shall be retained by the collecting facility and twenty five percent be distributed to satellite facilities.

(9) The basis of distribution of the funds in subsection (40) (5)(b) shall be arrived at upon conducting of a scientific assessment that shall be overseen by the CECM in charge of health services within one year upon the operationalization of this act. Additionally, the CECM in charge of health services shall make regulations which shall be approved by the County Assembly, within one year upon the commencement of this act, to further clarify the implementation of this sub-section.

Procurement

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

(2) Notwithstanding subsection (1) above, a county health facility classified as a sub county referral hospital or a county hospital under Section 10 shall be a procuring entity. The CECM in charge of health services shall draft regulations on the financial operations of health centers and dispensaries by the time implementation of section 41 commences. These regulations shall provide systems that ensure consistency in supply of pharmaceuticals and non-pharmaceuticals to the health centers and dispensaries. These regulations shall be forwarded to the County Assembly for consideration/approval.

(3) The Executive Member shall ensure that the procurement system for medical supplies, goods and services in the county is harmonized and efficient.

(4) The Department or a county health facility described under subsection (2) shall not procure any medical supplies that do not conform

to the standards prescribed under any written law.

(5) A manufacturer or supplier who supplies any medical supplies/commodities which do not meet the prescribed standards shall be barred forthwith from supplying any medical supply to the county government and subjected to the relevant legal action.

(6) The procurement procedure of all medical supplies and commodities of all health facilities shall be in accordance with the PPOA Act, 2015 or any other relevant legislation.

(7) Six months after the inception of this law, the CEC Member for Health shall formulate regulations that will control the pharmaceuticals and the non-pharmaceuticals supplied to facilities including regular audit and inspection of the same.

(8) The County Executive Committee Member for Health Services shall expedite the procurement of a management information system to track on procured medical supplies, goods and services, two years upon commencement of this Act.

(9) The County Executive Committee Member for Health Services shall come up with regulation on how to cap tenders to local suppliers.

PART VII—GENERAL PROVISIONS

Health Policies

43. The County Executive Committee Member shall upon the commencement of this Act, prepare and submit to the county executive committee and the county assembly for adoption or approval the policies stipulated under the Fourth Schedule.

Regulations

44.(1) The County Executive Committee Member may make regulations generally for the better carrying out of the objects of this Act six months upon its commencement and forward it to the County Assembly for approval.

(2) Without prejudice to the generality of subsection (1), the Regulations may prescribe—

- (a) the number of dispensaries and community units in a ward;
- (b) the compositions and roles of the members of the hospitals boards and the health centers' and dispensaries' committees;
- (c) the manner of electing members to the health centers' and

dispensary' committees;

- (d) for operational policies and guidelines of a health facility within the County;
- (e) the standards and procedures for conducting inspections and health systems audit;
- (f) data and information to be collected and collated from private health service providers; and
- (g) the procedure of conduct of the business of the county health sector stakeholders' forum.

SCHEDULES

FIRST SCHEDULE (S.11)

Level I: community health unit

Level II: Dispensary/ clinic

Level III: Health Centre

Level IV: Sub County Hospital

Level V: County Referral Hospital

LEVEL 1: COMMUNITY HEALTH UNIT

Functions—

- (a) facilitates individuals, households and communities to carry out appropriate healthy behaviors;
- (b) provides agreed health services;
- (c) recognizes signs and symptoms of conditions requiring referral;
- (d) facilitates community diagnosis, management and referral.

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

LEVEL 2: DISPENSARY/CLINIC

Functions—

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

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

LEVEL 3: HEALTH CENTRE

Functions—

- (a) it provides out-patient care;
- (b) provision of limited emergency care;
- (c) maternity for normal deliveries;
- (d) laboratories, oral health and referral services;
- (e) provision of preventive and promotive services;
- (f) in-patient observations.

Note.— The In-charge is the clinical officer.

LEVEL 4: PRIMARY HOSPITAL/SUB COUNTY HOSPITAL

Functions—

- (a) clinical supportive supervision to lower level facilities;
- (b) referral level out-patient care;
- (c) in-patient services;
- (d) emergency obstetric care and oral health services;
- (e) surgery on in-patient basis;
- (f) client health education;
- (g) provision of specialized laboratory tests;
- (h) radiology service;
- (i) proper case management of referral cases through the provision of four main clinical specialties (i.e. internal medicine, general surgery, gynaeobstetrics and paediatrics) by general practitioners backed by appropriate technical devices;
- (j) proper counter referral;
- (k) provision of logistical support to the lower facilities in the catchment area;
- (l) coordination of information flow from facilities in the catchment area.

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

LEVEL 5: SECONDARY HOSPITAL/COUNTY REFERRAL HOSPITAL

Functions—

- (a) provision of specialized services;
- (b) training facilities for cadres of health workers who function at the primary care level (nursing staff and clinical officers);
- (c) serves as internship center for all staff, up-to medical officers;
- (d) research center.

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

SECOND SCHEDULE (S.12 and 11)

Provisions as to the Composition and Roles of the Hospital Board and Facility Committee

1. (1) The hospital board shall consist of—
 - (a) a non-executive chairperson nominated by the County Executive Committee Member and appointed by the Governor;
 - (b) the Hospital In-Charge of the hospital who shall be an *ex officio* member and the secretary;
 - (c) the County Director or his/ her representative at the hospital/ county/ Sub -county levels
 - (d) one person representing faith based organizations nominated by a joint forum of the organizations in the county or Sub County;
 - (e) one person representing non -governmental organizations providing health services in the county or sub county nominated by a joint forum of non -governmental organizations in the county or Sub County;
 - (f) one person representing persons with disabilities nominated by the joint forum of organizations of persons with disabilities in the county or Sub County;
 - (g) one person nominated by the joint forum of health professional bodies in the County or sub county, from amongst their members who are not public officers;
 - (h) one person who has knowledge or experience in finance or accounting; and
 - (i) one person representing the health insurance.

(2) The Board may invite any staff member(s) of the hospital management team to attend its meeting as the Board may deem appropriate.

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

- (a) possesses a degree from a recognized university or any other equivalent training; and
- (b) has at least five years' experience in management, leadership or administration.

(4) A person shall not be eligible for appointment as a member under subsection (1) (d), (e), (f), (g), (h) and (i) unless the person—

- (a) posses at least a diploma from a recognized institution;
- (b) has at least five years' experience in community health, development administration or management or accountancy and finance in the case of a person appointed under subsection (1) (h); and
- (c) is a resident of the County or Sub County as the case may be.

(5) A person shall not be eligible for appointment as a member of the board if they are in contravention with the requirements of Chapter 6 of the constitution of Kenya or if they have ever been convicted of a criminal offence.

(6) The term of office of a member appointed under sub section (1) (a), (d), (e) (f), (g), (h) and (i) Shall be three years which may be renewed for one further and final term of three years after which the person shall not be eligible for further appointment in the same capacity.

(7) The Secretary shall provide secretariat services to the Board.

(8) Subject to subsection (1), the appointing authority shall ensure youth representation and compliance of a third gender rule.

(9) The nominated names of the board members for the referral facilities shall be forwarded to the County Assembly for approval.

Committee of a Health Centre or Dispensary

2. (1) A health centre or dispensary shall be governed by a committee of not less than 7 and not more than 9 members appointed by the Executive Member consisting of—

- (a) non-executive chairperson;

- (b) the officer in -charge of the facility, who shall be the secretary (ex-officio);
- (c) the ward administrator in the area of jurisdiction(ex-officio);
- (d) the public health officer or Public health Technician covering the facility's catchment area (ex-officio);
- (e) one person representing faith based organizations;
- (f) one person representing community based organizations providing health services in the ward nominate d by the joint forum of the organizations;
- (g) one person nominated by local community members in accordance with the prescribed procedure, who shall be a youth representative.;
- (h) one person to represent special interest groups;
- (i) the persons nominated in g and h above must have experience in health accounting and finance;
- (j) Member of County Assembly or a representative appointed by him/her (ex- officio);
- (k) the two third gender rule must be observed.

(2) Subject to sub-section (1) (g) above one of the two persons nominated by the local community must have knowledge in finance or accounting.

Functions of the Committee

- (3) (a) (1)The committee shall be responsible for—
- (a) providing oversight over the administration of the health centre or dispensary;
 - (b) promoting the development of the health centre or dispensary;
 - (c) representing community interests;
 - (d) approving plans and programs for implementing county health strategies in the facility;
 - (e) may introduce a fee in consultation with the Sub County Health Management Team with the purpose of expanding the range of available services;
 - (f) advocate for innovative ways of community-based health financing;

- (g) carrying out any other function assigned by the Executive Member .

(2) A person shall not be eligible for appointment as a chairperson of a health center or a dispensary unless the person —

- (a) possesses at least O-level education from a recognized institution;
- (b) has at least three years' experience in management, leadership or administration; and
- (c) a resident in the ward.

(3) A person shall not be eligible for appointment as a member under subsection (1) (f), (g) and (h) unless the person—

- (a) has O-level education
- (b) preferably has three years' experience in community health, community development ,administration or leadership; or any other experience considered relevant by the appointing authority;
- (c) is a resident in the Ward.

(4) A person shall not be eligible for appointment as a member of the board if they are in contravention with the requirements of Chapter 6 of the Constitution of Kenya or if they have ever been convicted of a criminal offence.

(5) The term of office of a member appointed under sub section (1) (f), (g) and (h) shall be three years which may be renewed for one further and final three year term after which the person shall not be eligible for another term .

(6) Subject to subsection 1, the appointing authority shall ensure youth representation and compliance with the two-third gender rule.

3. (b) Removal from office

(1) A person appointed under section 9 and 11, may—

- (a) at any time resign by issuing notice in writing to the Executive Member;
- (b) be removed from office by the Executive Member on the advice of the County Health Management Team and in case of a person appointed under section 9, in consultation with the Governor for—

- (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 Board without the permission of the chairperson;
- (v) incompetence; or
- (vi) bankruptcy-Financial matters are addressed in PART IV of this Act.

THIRD SCHEDULE

(S.12,13,14 and S. 15)

PROVISIONS AS TO THE CONDUCT OF BUSINESS AND AFFAIRS OF THE HOSPITAL BOARD AND FACILITY MANAGEMENT COMMITTEE

1. Meetings

1) The Board or Committee 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 subparagraph (1), the chairperson may, and upon requisition in writing by at least half of the members, convene a special meeting of the Board or Committee at any time for the transaction of the business of the Board or Committee.

3) Unless three quarters of the total members of the Board or Committee otherwise agree, at least fourteen days' written notice of every meeting of the Board or Committee shall be given to every member of the Board or Committee.

4) The quorum for the conduct of the business of the Board shall be five members and for the Committee three members including the chairperson or the person presiding.

5) The chairperson shall preside at every meeting of the Board or 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 and privileges of the chairperson.

6) Unless a unanimous decision is reached, a decision on any matter before the Board or 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.

7) Subject to subparagraph (4), no proceedings of the Board or

Committee 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 Committee or other matter before the Board or Committee and is present at a meeting of the Board or 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: 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 Board or 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 Board or Committee shall be considered to have a conflict of interest for the purposes of this Act if he acquires any pecuniary or other interest that could conflict with the proper performance of his duties as a member or employee of the Board or Committee.

(3) Where the Board or Committee becomes aware that a member has a conflict of interest in relation to any matter before the Board or Committee, the Board or 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 shall, in addition to complying with the other provisions of this section, disclose the conflict that exists to the chief officer in writing.

(5) Upon the Board or 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 of the Board or Committee and the member with the conflict of interest shall not vote on this determination.

Code of conduct

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

Minutes

4. The Board or Committee shall cause minutes of all resolutions and

proceedings of meetings of the Board or Committee to be entered in books kept for that purpose.

Conduct of business

5. (1) The conduct and regulation of the business and affairs of the Board or a committee established under section 9 and 11 shall be as set out in the First Schedule.

(2) Except as provided in the First Schedule, the Board or the committee established under section 9 and 11 may regulate its own procedure.

Removal from office

6. (1) A person appointed under section 9 and 11, may—

- (a) at any time resign by issuing a one month notice in writing to the Executive Member;
- (b) be removed from office by the Executive Member on the advice of the County Health Management Team and in case of a person appointed under section 9, in consultation with the Governor for—
 - (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 Board without the permission of the chairperson;
 - (v) incompetence; or
 - (vi) bankruptcy.

2. In the event of a member feeling dissatisfied or aggrieved with 1(b) above they may appeal to the office of the governor where a decision made shall be final.

Dissolution of a hospital board

7. (1) A hospital board or a health facility committee at a health centre or a dispensary shall be expected to serve its full term.

2) Notwithstanding sub-section (1) above, and without prejudice the hospital board or management committee at the health centre or dispensary may be dissolved on account of gross misconduct, nonperformance or issues of integrity.

(3) Such a petition may be made by a person(s) in writing to the Executive Member of health.

(4) The Executive Committee Member upon receiving such a petition shall constitute a committee of at least 5 members to investigate such allegation(s) and make recommendations to the Governor.

FOURTH SCHEDULE

(S.12)

REMUNERATION OF THE BOARD

- (i) The payment of the board shall always be advised by Salaries and remuneration circular currently referenced SRC/ADM/CIR/1/13(122) dated 16th April, 2014 and shall only be revised upon advise by another circular from Salaries and Remuneration Commission or any other mandated government institution.
- (ii) the payments shall be in respect of four full board meetings in a year and up to a maximum of two (2) subcommittee meetings in a quarter.

FIFTH SCHEDULE

Policies and regulations to be drafted by the CECM In charge of Health Services.

1. Environmental health Sanitation and hygiene .
2. Occupational safety.
3. Public health and sanitation policy.
4. Tobacco control.
6. Treatment and rehabilitation for alcohol and drug dependency.
7. 'Health in all sector' policy.
8. The Siaya County Health services policy.
9. Health promotion policy.
10. Regulations on operation of private and Faith based health facilities in Siaya County.
11. Financial operations, pharms and non-pharms supply and disbursement of funds to health centers and dispensaries.
12. Fee waivers and exemptions.
13. Universal Health Coverage.
14. Pharmaceuticals and non-pharmaceuticals supply.
15. Nurturing care for Early Childhood Development.