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THE MIGORI COUNTY HEALTH SERVICES ACT

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THE MIGORI COUNTY HEALTH SERVICES ACT, 2019

AN ACT of the County Assembly of Migori to provide for the promotion of health care services and the management of county health facilities and for connected purposes

ENACTED by the County Assembly of Migori as follows—

Short Title**PART — PRELIMINARY**

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

Interpretation

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

‘Constitution’ means the constitution of Kenya 2010.

“county” means the county government of Migori

“county health facility” for the purposes of this Act means a county public health facility;

“Committee” means the Committee of health centre or dispensary established under section 14;

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

“Department” means the County department responsible for county health services established under section 5;

“Director” means the county Director of Health Services appointed under section 7;

“Executive Member” means the member of the County Executive Committee responsible for county health services;

“health care provider” means a person who provides health care services and includes a health care professional;

“hazardous waste” means controlled waste which has the potential, even in low concentrations, to have significant adverse effect on the environment and human health on account of its inherent chemical and physical characteristics, such as toxic, ignitable, corrosive, or other properties;

“health promotion” means the process of enabling people to increase control over, and to improve their health and includes health education,

disease prevention, rehabilitation services and health enhancement through empowerment of patients, their relatives and employees in the improvement of health-related physical, mental and social well-being;

“medical supplies” includes pharmaceuticals, non pharmaceuticals, nutraceuticals, vaccines and therapeutic anti-sera, 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;

“Preventive” means measures taken for disease prevention as opposed to disease treatment;

“Referral” means the process by which a given health facility transfers a client service, specimen and client parameters to another facility to assume responsibility for consultation, review or further management;

“rehabilitation” means specialized healthcare dedicated to improving, maintaining or restoring physical strength, cognition and mobility with maximized results after illness, injury or surgery; and

"user" means any person who seeks or intends to seek medical care from a health care provider or a health facility.

Purpose of the Act

3. The purpose of the Act is to—
 - (a) give effect to section 2 part 2 of the Fourth Schedule to the Constitution;
 - (b) establish the healthcare services Fund;
 - (c) provide for the promotion and provision of health services;
 - (d) provide for the management of county health care facilities; and
 - (e) facilitate the realization of the highest attainable standard of health including the right to health care services and reproductive health care.

Guiding Principles

4. The guiding principles to which this Act is anchored, shall be —
 - (a) the values and principles as enshrined in Article 10 and 232 of the Constitution; and
 - (b) management of health services in line with national and international standards.

PART II—HEALTH SERVICES MANAGEMENT**County Department**

5. There is established the county Department responsible for health in line with the national health policy guidelines for setting up a county health system and shall in all matters be answerable to the Governor and the County Assembly subject to the provisions of the Constitution and any applicable written law.

Functions of the Department

6. (1) The Department shall be responsible for—
- (a) the provision and coordination of promotive, preventive, curative and rehabilitative health services;
 - (b) the development of the county health policies, laws and programs;
 - (c) the implementation of national health policies, laws and programs at the county level;
 - (d) the coordination of ambulance and referral services;
 - (e) the coordination of health emergency preparedness and response;
 - (f) the facilitation of the registration, licensing and accreditation of county health facilities, private health facilities and premises;
 - (g) ensuring of compliance of healthcare standards and regulations by public and private health facilities;
 - (h) the establishment, designation and regulation of cemeteries, funeral homes and crematoria;
 - (i) the establishment of supplementary sources of income for the provision of health services, in so far as these are compatible with the applicable law;
 - (j) the management of the human resource personnel under the Department;
 - (k) the facilitation of capacity building and professional development for health service personnel;
 - (l) overseeing the management and governance of county health services;
 - (m) the setting of standards on environmental health and sanitation;

- (n) the coordination and liaison of departmental activities with other county departments, county governments and the national government in the implementation of health policies, laws and programs;
- (o) the provision of a conducive environment for users and health service providers;
- (p) the development of a health monitoring and evaluation framework to guide the use of resources and implementation of health priorities;
- (q) the development, equipping and maintenance of the county health facilities;
- (r) conducting research in collaboration with the national government and other relevant research institutions on matters falling within the scope of this Act;
- (s) collection of user charges and licensing fees on matters falling within the scope of this Act or any other law;
- (t) the establishment and gazetting of county health facilities;
- (u) procuring and managing of essential health products and technologies in accordance with set standards;
- (v) promotion of public participation in health matters within the county; and
- (w) the carrying out of any other function for the realization of the purpose of this Act as the executive member may assign from time to time.

(2) The Department may from time to time establish a management structure at the department and sub county level in line with the national policies on health.

County Director of Health

7. (1) There is established the offices of the County Director of public Health Services and medical services.

(2) The Director shall be recruited through a competitive process in conformity with the rules and regulations set from time to time by the County Public Service Board.

(3) A person appointed as Director of Health shall—

- (a) be a medical practitioner registered by the Medical Practitioners and Dentists Board and or any other relevant professional body.

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- (b) be at least a holder of a Masters degree in public health or any other health related discipline; and
 - (c) have at least five (5) years' experience at a senior management level in health services.
- (4) The Director shall—
- (a) be the technical advisor on matters relating to health within the County;
 - (b) be the technical advisor to the Executive member and the Governor;
 - (c) supervise all health services within the County;
 - (d) promote public health and the prevention, limitation or suppression of infectious, communicable or preventable diseases within the County;
 - (e) promote and facilitate research and investigations in connection with the prevention or treatment of human diseases;
 - (f) prepare and publish reports and statistical or other information relating to health services within the County;
 - (g) report periodically to the office of the Director-General of health on all public health occurrences including disease outbreaks, disasters and any other health matters; and
 - (h) perform any other duties as may be assigned by the executive member and any other written law.

Staff

8. The Chief Officer shall in accordance with section 62(3) of the County Governments Act, make representations to the County Public Service Board on the establishment of offices and appointment of such number of staff for the Department, including county health facilities and specialized units according to set norms and standards.

Classification and Functions of the county health care delivery levels

9. The classification and functions of the county health care delivery levels is as prescribed in the First Schedule to the Health Act and shall include a—

- (a) community health services;
- (b) dispensary/ clinic;
- (c) health centre;

- (d) level four; and
- (e) level five;

Establishment of Health Facilities

10. (1) There shall be—
- (a) at least a level five hospital within the County;
 - (b) in each sub-county, at least one level four hospital;
 - (c) in each ward, at least a health centre;
 - (d) Such number of dispensaries and community health units in each ward as the executive member may from time to time determine; and
 - (e) at least two sign language interpreters to serve in a sub county health facility

(2) The facilities referred to in subsection (1), shall meet such standards as prescribed by the Department.

Establishment of County Hospital Management Board

11. (1) There is established the County Hospital Management Board.
- (2) The Board appointed by the Governor and shall consist of—
- (a) a non-executive chairperson;
 - (b) the medical superintendent who, shall be the secretary.
 - (c) the area sub-county administrator appointed under section 50(2) of the County Governments Act, 2012 or a representative nominated in writing;
 - (d) seven other persons of whom—
 - (i) one shall have knowledge and experience on health matters;
 - (ii) one with knowledge and experience in finance and administration;
 - (iii) one person representing the minority group within the county;
 - (iv) one person representing persons with disability;
 - (v) one representing the youth;

- (vi) one person representing faith based organizations nominated by a joint forum of the organizations in the county or sub county; and
- (vii) one representing the women.

(3) The Board may co-opt any person with the necessary expertise for effective discharge of its functions under this Act.

(4) A person is eligible for appointment as a chairperson of the Board under this Section if the person—

- (a) holds at least a university degree from a university recognized in Kenya;
- (b) have demonstrated high level of integrity and leadership at senior level either in public or private sector;
- (c) not a serving state officer; and
- (d) satisfies the provisions of chapter 6 of the Constitution.

(5) A person is eligible for appointment as a member of the Board under Section 13(2) (d) of this Act if the person—

- (a) holds at least a post-secondary qualification or its equivalent.
- (b) have demonstrated high level of integrity and leadership at senior level either in public or private sector;
- (c) not a serving state officer; and
- (d) Satisfies the provisions of chapter 6 of the Constitution.

(6) a member of the Board, apart from the ex-officio, shall hold office for a period of three years and may be eligible for appointment for one further term.

Establishment of sub-county hospital management Board

12. (1) There is established the sub County Hospital Management Board.

(2) The Board is appointed by the Executive Member and shall consist of—

a non-executive chairperson;

- (a) the area sub-county administrator appointed under section 50(2) of the County Governments Act, 2012 or a representative nominated in writing;
- (b) the medical superintendent who, shall be the secretary

- (c) seven other persons of whom—
- (i) one shall have knowledge and experience on health matters;
 - (ii) one with knowledge and experience in finance and administration;
 - (iii) one person representing the minority group within the county;
 - (iv) one person representing persons with disability;
 - (v) one representing the youth; and
 - (vi) one representing the women

(3) The Board may co-opt any person with the necessary expertise for effective discharge of its functions under this Act.

(4) A person is eligible for appointment as a chairperson of the Board under this Section if the person—

- (a) holds at least a post-secondary qualification or its equivalent.
- (b) have demonstrated high level of integrity and leadership at senior level either in public or private sector;
- (c) not a serving state officer; and
- (d) Satisfies the provisions of chapter 6 of the Constitution.

(6) A member of the Board, apart from the *ex-officio*, shall hold office for a period of three years and may be eligible for appointment for one further term.

Functions of County Hospital Management Board

13. The functions of County Hospital Management Board under this Act, shall be to—

- (a) ensure user care and the overall quality of health services in the hospital;
- (b) represent community interests in resource allocation and planning within the hospital;
- (c) articulate and represent local community interests on health matters in local development forums;
- (d) facilitate feedback process to the community pertaining to the operations and management of the hospital; and
- (e) mobilize community resources towards the development of health services within the hospital.

Responsibilities of the Secretary

14. The responsibilities of the Secretary to the County Health Services Board and County Hospital Management Board shall be to—

- (a) convene Board meetings in consultations with the Chairperson;
- (b) keep records of the deliberations of the Board;
- (c) communicate decisions of the Board to all persons affected by such decisions; and
- (d) Perform any other function as may be assigned by the Board from time to time.

Committees of the Boards

15. (1) The County Hospital Management Board may establish committees to effectively discharge their functions under this Act.

(2) Without prejudice to the generalities of subsection (1), the Boards may establish the following committees—

- (a) Finance and administration Committee;
- (b) Audit committee;
- (c) Special *ad hoc* committee; and
- (d) General Purpose Committee.

Health Centre and Dispensary Management Committees

16. (1) There shall be a health facility management committee for each health centre and dispensary within the county.

(2) The management committee referred to in subsection (1) shall consist of—

- (a) the ward administrator of the area of jurisdiction;
- (b) the ward representative of the area of jurisdiction who shall be an ex- officio member;
- (c) the in charge of the health facility in that area, who shall be the Secretary;
- (d) six other members elected by the community within the ward where the health centre or dispensary is situated

(3) The chairperson shall be nominated from amongst the members elected under paragraph 17 (2) (c) of this Act.

(4) Members elected under paragraph 15 (2) (c) shall be persons of

integrity in line with Chapter six of the Constitution and shall hold a minimum academic qualification of Kenya Certificate of Secondary Education or its equivalent.

(5) A member of the Committee, except the *ex-officio* member, shall hold office for a term of three years and may be eligible for re-appointment for one further term.

(6) The Committee shall meet once in each quarter in each financial year and shall maintain records of its deliberations.

(7) The quorum for the meeting of the Committee shall be five of the members excluding the Secretary.

(8) The Committee shall be responsible to the sub county hospital management board.

Functions of the Committees

17. The Committee shall —

- (a) supervise and control the administration of the funds allocated to a health centre or dispensary;
- (b) approve work plans and procurement plans;
- (c) cause to be kept books of accounts and records of accounts of the income, expenditure, assets and liabilities of the facility by the officer administering the Fund;
- (d) prepare and submit certified periodic financial and performance reports to the Sub county hospital Management Board;
- (e) provide general oversight for the general operations and management of the health facility;
- (f) articulate and represent local community interests on health matters in local development forums;
- (g) facilitate feedback process to the community pertaining to the operations and management of the health facility;
- (h) implement community decisions in relation to their own health; and
- (i) mobilize resources towards the development of health services within the area.

Removal from Office

18. A member of the Board or Committee may be removed from office for—

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- (a) gross misconduct, whether in the performance of the functions of the office or otherwise;
- (b) physical or mental incapacity to perform the functions of office;
- (c) serious violation of the Constitution or any other written law;
- (d) being absent from three consecutive meetings of the Board without the permission of the chairperson;
- (e) incompetence; or
- (f) being adjudged bankrupt.
- (g) death of a member'

Operational Guidelines and Standards for Administration of Health Facilities

19. The Executive Member may prescribe operational policies and guidelines for effective management and administration of county health facilities in line with the national policies on health

PART III— HEALTH SERVICE DELIVERY

Requirements of a Health Service Delivery System

20. The Department and each county health facility shall adopt a health service delivery system that is—

- (a) of quality;
- (b) effective;
- (c) safe;
- (d) affordable;
- (e) accessible;
- (f) based on continuity of care across health conditions, across different locations and over time;
- (g) demand driven;
- (h) integrated;
- (i) personal or non-personal to the targeted users when they are needed; and
- (j) Adequately resourced.

Cooperation

21. The Department shall promote effective collaboration with the National Government, other county governments, private institutions and implementing partners for efficient delivery of health services.

Rights of Health Care Providers

22. Health care providers shall have the right to—

- (a) a safe working environment that minimizes the risk of disease transmission and injury or damage to him or herself;
- (b) adequate equipment and supplies to perform their prescribed duties effectively;
- (c) not to be discriminated against on account of any of the grounds set out in Article 27(4) of the Constitution;
- (d) fair remuneration in line with the terms and conditions set out in consultation with the Salaries and Remuneration Commission;
- (e) join, form or participate in a union, welfare or a professional body; and
- (f) to access a lactation station in the workplace that is adequately provided with hand washing facilities, cooling facilities, a table and comfortable seats.

Duties of Health Care Providers

23. A health care provider shall have a duty to—

- (a) provide health care, conscientiously and to the best of their knowledge, within the scope of practice and ability, to every person entrusted to his or her care;
- (b) provide emergency medical treatment;
- (c) inform a user of a health system in a manner commensurate with his or her understanding, of his or her health status including—
 - (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 in writing except in instances where the user is diagnosed with a disease or condition that is a health risk to other members of the public.

Rights of a User

24. Every user of a county health system has the right to—
- (a) the highest attainable standard of health including access to reproductive health;
 - (b) be treated in a clean and healthy environment;
 - (c) reproductive health care which includes information and access to reproductive health to men and women of reproductive age including safe, effective, affordable and acceptable family planning services;
 - (d) be treated with a professional standard of care, by appropriately qualified and experienced staff in a properly approved or registered health facility that meets required levels of safety and quality; and
 - (e) be treated with dignity, respect and have their privacy respected in accordance with the Constitution and this Act; and
 - (f) refuse any treatment or procedure except in instances where they are diagnosed with a disease or condition that is a health risk to other members of the public.

Duties of a User

25. A user of a county health system has a duty in the absence of any observable incapacity to—
- (a) adhere to the rules of a health establishment when receiving treatment or using the health services provided by the establishment;
 - (b) adhere to the medical or health advice and treatment provided by the establishment;
 - (c) supply the health care provider with accurate information pertaining to his or her health status;
 - (d) cooperate with the health care provider; and
 - (e) to treat health care providers and health workers with dignity and respect.

Confidentiality

26. Information concerning a user of a county health system 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 a court or informed consent for health research purposes.

Consent

27. (1) No specified health service may be provided to a user without the user's informed consent unless—

- (a) the user is unable to give informed consent and such consent is given by a person mandated by the user in writing to grant consent on his or her behalf; or authorized to give such consent in terms of any law or court order;
- (b) the user 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 user is being treated in an emergency situation;
- (e) failure to treat the user, or a group of people which includes the user, will result in a serious risk to public health; or
- (f) any delay in the provision of the health service to the patient might result in his or her 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.

Health Outcomes

28. (1) The Department shall ensure that health policies, plans and budgets are developed and implemented with the aim of achieving the prescribed health outcomes.

(2) The health outcomes described under subsection (1) shall conform to the policy, standards, norms and guidelines prescribed at the national and international level.

Health Statement, Policies and Programs

29. (1) The Executive Member shall within six months after the commencement of this Act, prepare and submit to the county executive committee, a health statement providing for magnitude of—

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

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

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

(4) The health risk factors described under this section shall include tobacco consumption, alcohol and drug use, unsafe sex, unsafe food and unhealthy diet.

Public Health

30. (1) The Department shall devise and implement measures to promote health and to counter influences having adverse effect on the health of the people including–

- (a) interventions to reduce the burden of communicable and non-communicable diseases and neglected diseases, especially among indigent population;
- (b) promotion of nutritional knowledge at all age levels;
- (c) interventions to promote healthy lifestyle including-
 - (i) counter the excessive use of alcoholic products and the adulteration of such products; and
 - (ii) reduce the use of tobacco and other addictive substances and to counter exposure of children and others to tobacco smoke;
- (d) promotion of school health program;
- (e) general health education of the public;
- (f) oversee the development and management of public and private mortuaries, cemeteries and crematoria; and
- (g) enforcement of the public health related legislation.

Environmental Health

31. The Department shall ensure that measures for managing environmental risk factors to curtail occurrence and distribution of diseases are put in place and implemented which measures shall target—

- (a) the reduction of disease burden arising from poor environmental hygiene, sanitation, occupational exposure and environmental pollution such as mercury and cyanide;
- (b) the reduction of morbidity and mortality of waterborne, food borne and vector transmitted diseases;
- (c) the fostering of the national and county synergies to address or forestall transmission of diseases of international concern;
- (d) building community capacity in providing solutions to public health challenges; tuberculosis;
- (e) management of hazardous and healthcare waste; and
- (f) enforcement of the public health related legislations.

HIV and Tuberculosis Services

32. (1) The Department shall coordinate and implement comprehensive HIV and Tuberculosis care and treatment programmes in line with national and international policies towards reduction of new infections including—

- (a) promotion of HIV and Tuberculosis testing services;
- (b) Care and treatment services;
- (c) Elimination of mother to child transmission;
- (d) Retention of HIV and TB positive clients on care;
- (e) mobilization of resources towards HIV and Tuberculosis prevention; and
- (f) workplace HIV and Tuberculosis care services.

(2) The Department shall advocate for increased budgetary allocation from the county treasury to ensure sustainable HIV and Tuberculosis management.

(3) The Department shall collaborate with the national government and partners in the management and control of HIV and Tuberculosis programmes.

Non-communicable Disease Control Services

33. The Department shall adopt and coordinate implementation of non-communicable disease control services, policies and programs in line with national and international standards that shall include—

- (a) promotion, prevention and care of persons with mental illness and their families; and
- (b) surveillance and early detection for prevention and control of non-communicable disease

Maternal, Adolescent and Child Health

34. The Department shall ensure a comprehensive programme to advance reproductive, maternal, neonatal, child and adolescent health including—

- (a) safe, accessible, effective, affordable, family planning services;
- (b) means to reduce unsafe sexual practices;
- (c) adolescence and youth sexual and reproductive health;
- (d) maternal and neo-natal and child health;
- (e) elimination of female genital mutilation;
- (f) maternal nutrition and micro nutrient supplementation;
- (g) immunization services; and
- (h) sexual and gender based violence management

Health Promotion

35. The Department shall, in collaboration with public or private sector agencies, adopt and implement cross-sector health promotion policies and programs that—

- (a) promote health and well-being;
- (b) advocacy to enable people live healthy lives;
- (c) address wider determinants of health that are oriented towards reduction of communicable and non-communicable diseases;
- (d) promote and enhance capacity of local communities and individuals for health promotion; and
- (e) Support partnerships for health promotion.

Human Nutrition and Dietetics

36. The Department shall devise and implement programs on human nutrition and dietetics in collaboration with the relevant partners, county departments and persons, to include—

- (a) promotion of healthy diets and appropriate nutritional practices;
- (b) quality, adequate and safe general feeding;
- (c) inter-sectoral collaboration and public -private partnerships for food quality and safety in production of nutrient rich; and
- (d) enforcing regulation of nutrition practice and standards.

Eye Health

37. The Department shall develop, adopt and coordinate implementation of eye care policies and programs in collaboration with partners in line with national policy or any other law to include—

- (a) promotion and prevention of avoidable blindness;
- (b) quality, adequate and safe eye health services; and
- (c) mobilization of resources towards affordable eye health services.

Community Health

38. (1) The Department shall adopt and coordinate implementation of primary health care policies and programs in line with national and international standards.

(2) The Executive Member shall—

- (a) ensure that each community unit is fully resourced including provision of a stipend for community health volunteers in order to enable it effectively provide primary health care; and
- (b) from time to time review the provision of stipend to the community health volunteers.

E-Health

39. The Department shall adopt and implement e-health policies and programs in line with national and international standards towards reduction of new cases including—

- (a) health service delivery through M-health,
- (b) E-learning and telemedicine; and
- (c) medical tourism.

Health Plans

40. (1) The Department shall in consultation with the Department relating to matters of monitoring and evaluation, prepare a five-year health strategic plan in accordance with this Act and the County Governments Act.

(2) The health plan shall, for the purposes of the County Governments Act, be the health sector plan and may be reviewed periodically.

(3) The Department shall prepare and implement a five-year health monitoring and evaluation plan which shall provide for—

- (a) the health monitoring and evaluation process; and
- (b) the levels and frequency of monitoring and evaluation.

Health Status Report

41. (1) The Department shall, not later than three months after the end of each financial year, prepare a health status report which shall consist of—

- (a) the status of implementation of the Act and related programs and activities during the year; and
- (b) the extent of consultation, cooperation and collaboration with national government and other county governments as provided for under this Act.

(2) The Executive Member shall, within fourteen days of receiving the annual report submit it to the County Executive Committee and thereafter within twenty one days submit it to the County Assembly for consideration and appropriate action.

Health Information System

42. (1) The Department shall adopt and maintain a health information system that shall apply to all levels of health care delivery units in the county in line with the national health information system policies.

(2) The Department shall—

- (a) establish and maintain a repository for county health information, data and statistics;
- (b) collate and analyse data and information from all health service delivery units ;

- (c) ensure that data and statistics held by the department are accessible to any member of the public or to any government agency provided it does not violate this Act or any other law; and
- (d) ensure adoption of electronic medical information systems in county health facilities within two years of commencement of this Act in line with the national policy on electronic medical records.

Specialized Units

43. (1) The Executive Member in consultation with the Director shall seek approval from the County Executive Committee in designating and facilitating the establishment of specialized healthcare units in specified county health facilities.

(2) The specialized units shall be established on the basis of disease, health condition or age and shall include—

- (a) renal unit
- (b) Intensive Care Unit;
- (c) maternal health;
- (d) child health;
- (e) mental health and substance abuse;
- (f) trauma and rehabilitative centre;
- (g) cancer centres;
- (h) diagnostic centres and blood safety service; and
- (i) any other that may be deemed necessary.

(3) The Executive Member shall ensure that the specialized units—

- (a) established under this section are equitably distributed within the county; and
- (b) described under subsection (2) (a), (b) (e) and (g) of this Act to be established within five years upon the commencement of this Act.

Quality Management System

44. The Executive Member shall establish a Quality Management System, which shall be certified under the recognized national and International Quality Standards and any other certification applicable to health service.

Medicines and Medical Supplies

45. The Executive Member shall —

- (a) in consultation with the Executive Committee, establish a system which ensures that essential medicines and medical supplies are available, accessible and affordable in each county health facility;
- (b) ensure that the medical supplies are of good quality and meet the standards prescribed under this law or any other written law;
- (c) adopt a logistic management information system for health commodities; and
- (d) ensure procurement of health products and technologies for the public health services shall be undertaken in line with—
 - (i) the Public Procurement and Asset Disposal Act ; and
 - (ii) the inter-governmental arrangements for medicine and medical products agreed upon where the Kenya Medical Supplies Authority and Mission for Essential Drug Supply are the primary suppliers.

Complaints Management

46. (1) Any person has a right to file a complaint about the manner in which he or she was treated at a health facility and have the complaint investigated appropriately.

(2) The Executive Member' shall establish and publish the procedure for the laying of complaints in public and private health care facilities within three months of the commencement of this Act'

(3) The procedures for laying complaints shall—

- (a) be displayed by all county health facilities in a manner that is visible for any person entering the establishment;
- (b) be communicated to users on a regular basis; and
- (c) be primarily handled by the head of the relevant facility or any person designated by the facility as responsible for handling user complaints.

(4) Every complainant under subsection (1) has a right to be informed, in writing and within a period of three months from the date the complaint was lodged, of the action taken or decision made regarding the complaint.

(5) Where a health facility fails to resolve a complaint to the satisfaction of the complainant, the Department shall take necessary action.

Public Private Partnership

47. Notwithstanding the provisions of this Act and any other law relating to public - private partnerships, the Department may enter into partnerships for the purposes of health service provision in the county.

PART IV— HEALTH CARE FINANCING

Establishment of the Fund

48. (1) The Executive Committee Member for Finance shall within 30 days after Gazettement of this Act establish the Migori County Health Services Fund

(2) The following monies shall be paid into the Fund—

- (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 proceeds of the fund
- (e) Income generated from Environmental Health Services
- (f) Funds from Linda Mama
- (g) Funds Received as Re-imbusement from National Hospital Insurance Fund

(3) (a) all monies due to the fund shall be received and paid to the Fund in full and shall be collected and accounted through the established accounting system.

- (b) This act shall exempt all monies raised or received directly by the County Health Facilities from being paid into County Revenue Fund;
- (c) The County Receiver of Revenue may designate a collector of revenue for the purpose of collecting and accounting for the revenue;

- (d) The Revenue exempted from payment into the County Revenue Fund shall be received and accounted as Appropriation in Aid (AIA)
- (4) (a) The budget estimates for the fund shall be submitted together with the estimates of the Department of Health Services after approval by the Board to County Treasury for consolidation.
- (b) The budget estimates shall comprise of separate expenditure plans for all health facilities which raise or receive revenue from their services
- (c) The budget estimates of the fund shall indicate expenditure net of appropriation in Aid (AIA) and shall be approved by the County Assembly.
- (5) a. the board shall authorize payments out of the fund on the basis of quarterly budgets approved by Hospitals boards and the health facilities committees;
 - (a) the board shall ensure the amount payable to each hospital and health facilities shall be at least the amount of collections from that facility; and
 - (b) notwithstanding the provisions of paragraph (b) above, the board shall ensure equitable share of monies appropriated by the county assembly for the operational needs of the hospitals and health facilities

Establishment of the board

- 49. (1) There is established the Migori county health services fund board.
- (2) The board shall consist of—
 - (a) the executive member who shall be the chairperson;
 - (b) the chief officer(s) for the time being responsible for health services who shall be the secretary and administrator of the fund;
 - (c) the chief officer of the county department for the time being responsible for finance and economic planning or his representative dully nominated in writing;
 - (d) the county director of medical services;
 - (e) the county director of public health;
 - (f) the county nursing officer;

- (g) the county public health officer;
- (h) the county pharmacist;
- (i) the county laboratory services coordinator; and
- (j) one person with experience in matters related to health, who is not a county government employee, who shall be appointed by the executive member and shall serve a renewable period of three (3) years.

(3) The board shall execute its functions through the administrator of the fund.

(4) The executive member shall co-opt such public officers as may be necessary for the effective functioning of the board.

(5) The quorum at any meeting of the board shall be five members and the board shall meet not less than four times in each financial year.

(6) The executive member may make regulations generally to give full effect to this section.

Functions of the board

50. The board shall—

- (a) provide overall design and oversight of the fund;
- (b) consider, verify and approve funding to hospitals and health facilities;
- (c) approve disbursements;
- (d) ensure equitable distribution of resources to the hospitals and health facilities;
- (e) review and approve disbursements or utilization of the fund;
- (f) advice the executive member on the appropriate guidelines and procedures for better management of the fund;
- (g) consider and approve funding for preventive and promotive health services;
- (h) receive reports on the performance of the fund from management committee established under this Act;
- (i) develop relevant guidelines and review them as the need arises, to guide the operations and implementation of the fund;
- (j) develop and facilitate sectoral linkage on the fund;
- (k) monitor and evaluate programs and activities under the fund;

- (l) prepare an annual report on the operations and performance of the fund to the executive;
 - (m) oversee the management and administration of the fund; and
 - (n) put in place necessary mechanisms for sanctions and their enforcement in case of mismanagement of funds.
- (2) Members of the board shall serve the board on part time basis.

Committee of the board

51. (1) the board may, for the effective discharge of its functions, establish committees

(2) The board may coopt in to the membership of a committee established under subsection (1), any person whose knowledge and scales are considered necessary for the effective discharge of the functions of the board

Delegation of powers or functions

52. (1) the board may, where appropriate and in writing, delegate any power or assign any duty conferred on it under this Act to the administrator of the fund, the executive member or committees of the board

(2) A delegation or assignment under sub section (1) shall not prevent the board from exercising the power in question

(3) A delegation under this section—

- (a) shall be subject to any conditions the board may impose;
- (b) shall not divest the board of the responsibility 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 may be withdrawn or amended by the board.

Conduct of Business

53. (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.

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

Allowances

54. The chairperson and members of the board shall be paid such allowances as the County Public Service Board may, on the advice of the Salaries and Remuneration Commission, determine.

PART V— GENERAL PROVISIONS.**Offences**

55. (1) A person who wilfully refuses any treatment or procedure when diagnosed with a disease or condition that is a health risk to other members of the public—

- (a) shall immediately after the diagnosis be confined in the respective county health facility; and
- (b) Commits an offence and shall be liable upon conviction to a fine not exceeding one hundred thousand Kenya Shillings or to imprisonment for a term not exceeding one year or both.

(2) A health care provider operating in premises that have not been inspected and approved by the Department commits an offence and shall be liable upon conviction a fine not exceeding one hundred thousand Kenya Shillings or to imprisonment for a term not exceeding one year or both.

(3) A health care provider operating premises without the requisite trade license commits an offence and shall be liable upon conviction to a fine not exceeding one hundred thousand Kenya Shillings or to imprisonment for a term not exceeding one year or both.

Regulations

56. The Executive Member may make Regulations for the better carrying out of the provisions of this Act.

