

SPECIAL ISSUE

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REPUBLIC OF KENYA

**MOMBASA COUNTY GAZETTE
SUPPLEMENT**

BILLS, 2014

NAIROBI, 11th December, 2014

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**THE MOMBASA COUNTY MEDICAL FACILITIES
AND SERVICES CO-ORDINATION BILL, 2014**

A Bill for

**An Act of the County Assembly of Mombasa to provide
for the establishment and co-ordination of its
medical facilities and services**

ENACTED by the County Assembly as follows —

PART I — PRELIMINARY

1. This Act may be cited the Mombasa Medical
Facilities and Services Coordination Act, 2014

Short Title.

2. This Act shall come into operation on such day or
days as may be fixed therefore by any order or orders of
the County Executive Member, either generally or with
reference to any particular purpose or provision and
different days may be so fixed for different purposes and
different provisions of this Act.

Commencement.

3. In this Act—

Interpretation.

“county” means the County Government of
Mombasa;

“Executive Member” means the County Executive
Committee Member in charge of Health;

“maternity home” means any premises used or
intended to be used for the part of the course of practical
institution in midwifery recognized by the nursing
council.

“permit” means a permit granted under section 5 of
this Act;

“premises” means premises to which a permit
relates;

“public health committee” means the duly
constituted committee that handles public health matters
of the county government;

“qualified nurse” means a person registered in the
register of nurse and midwives and assistant nurses as
provided for under the Nurse Act (Cap 257).

4. The object of this Act is to regulate issuance of
permits for medical facilities and ensure proper
management of medical facilities.

Object of the Act.

**PART II — ADMINISTRATION AND
MANAGEMENT OF MEDICAL FACILITIES AND
SERVICES**

5. No person or body shall within the County operate a maternity home, nursing home or other medical facility unless he is in possession of a valid permit granted by the County Government.

Issuance of permit.

6. (1) A permit shall be in such a form as may from time to time be determined by the Executive Member and shall specify the premises to which it relates.

Form of permit.

(2) A permit shall expire on the 31st December of the year to which it relates.

(3) A permit shall not be transferrable from the holder to any other person unless with a written consent of the Executive Member.

7. (1) Every application for a permit shall be made in writing and addressed to the Executive Member.

Application for a permit.

(2) An application shall indicate the name, address and occupation of the applicant, and—

- (a) a description of the premises in respect of which the application is made and the location;
- (b) particulars of the number of patients proposed to be accommodated on such premises; and
- (c) the number and qualification of the persons proposed to be employed.

(3) Every application for renewal of any permit shall be made on or before the 15th day of October in each year preceding its renewal.

(4) A holder of a permit may apply for consent to transfer the permit at any time during the year.

8. The Executive Member shall on the receipt of an application for a permit to operate a nursing home or maternity home grant such permit:

Discretion of executive committee member to issue permit.

Provided that the Executive Member may decline to grant such permit if he or she is satisfied—

- (a) that the applicant or any person whether employed or proposed to be employed at such medical facility is not a fit person by reason of

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age, qualification or otherwise to carry on to be employed at the nursing home or maternity home; or

- (b) that the premises proposed to be used is not fit for the intended purpose due to its location, construction site, lack of trained personnel or lack of medical equipment and facilities;
- (c) in the case of a nursing home, the person is not a registered medical practitioner or qualified nurse resident at the facility, or that the nurses shall be understaffed;
- (d) in case of a maternity home, the person in charge is not a qualified nurse or a certified mid-wife or that any patient in such maternity home in childbirth or nursing any patient in such maternity home is not either a registered medical practitioner , a certified mid-wife , a pupil mid-wife or a qualified nurse.

9. The medical officer of health or any other officer authorized in writing by the executive member may at all reasonable times enter and inspect premises for which a permit has been issued under this Act and inspect any records required to be kept in respect of such premise.

Inspection of records.

10. The medical officer of health or any other officer authorized in writing by the executive member may at all reasonable times enter and inspect any premises within the county which he or she has reasonable cause to believe are being used for the purpose of carrying on a nursing home or a maternity home.

Inspection of premises.

- 11. (a) The Executive Member may within fourteen days notice issue an order declining to grant, renew or cancel a permit to the applicant.

Order by executive committee member.

- (b) The Executive member shall state the grounds for declining to grant, renew or cancel a permit.

(2) Every applicant shall be given an opportunity to show cause in person or by representative why an order under subsection (1) (a) should not be made.

(3) If the Executive Member after giving the applicant an opportunity of being heard as provided in subsection (2) decide to refuse the application for a permit or to cancel the permit they shall make an order to that effect and shall send a copy of the order to the applicant.

✓ 12. (1) A medical facility may provide rooms that may be used as a mortuaries.

Approved standard of medical facilities.

(2) Every medical facility shall provide an incinerator.

(3) The mortuaries or incinerators;

(a) shall be within the precincts of the premises to be used as a medical facility;

(b) shall be of approved standard and quality; and

(4) In the event of an operating theatre being provided on the premises, such operating theatre shall be of the approved standard.

PART III — MISCELLANEOUS

✓ 13. (1) Any person who contravenes or who fails to comply with any provision of this Act shall be guilty of an offence and shall be liable on conviction to a fine not exceeding Twenty thousand shillings in respect of a first offence and not exceeding Fifty thousand shillings in respect of a second or subsequent offence or imprisonment for a period not exceeding six months in respect of a first offence and not exceeding nine months in respect of a second or subsequent offence or to both.

Offences and penalties.

(2) Notwithstanding subsection (1) any permit issued before the coming into operation of this Act shall be deemed to be a permit issued under this Act and shall remain valid until it expires after which it shall be renewed in accordance with the provisions of this Act.

✓ 14. The Executive member may make regulations generally for the better carrying into effect of the provisions of this Act.

Regulations.

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**MEMORANDUM ON THE PROPOSED MOMBASA
MEDICAL FACILITIES AND SERVICES COORDINATION BILL,
2014**

1. PURPOSE

The purpose of this Memorandum is to request the County Assembly's consideration and approval of the Mombasa Medical Facilities and Services Co-ordination Bill, 2014 and its direction that the Bill be published for introduction in the County Assembly.

2. BACKGROUND

The Fourth Schedule Part 2, paragraph 2 (a) of the Constitution of Kenya, 2010 devolves county health facilities. The County therefore needs to regulate issuance of permits for medical facilities and ensure proper management of the same.

3. OUTLINE OF THE BILL

Part I

This Part names the proposed Act, defines words and expressions used in the Bill. It also provides for the commencement of this Bill if passed into law and its object.

Part II

This Part provides for the procedure of issuing permits and appealing if an application is declined.

Part III

This Part provides for miscellaneous aspect which provides for offences and penalties in this Act and gives the Executive member in charge of health the powers to ensure the regulations are drafted if necessary.

4. RECOMMENDATIONS

The Assembly is requested to:

- (a) note the contents of this Memorandum;
- (b) approve the Mombasa Medical Facilities and Services Coordination Bill, 2014 annexed to this Memorandum; and
- (c) authorise the Speaker to publish the Bill and present it to the County Assembly for debate and enactment.

HON. KIBWANA BAYA,
Chairman, Committee on Health Services.