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**THE MERU TEACHING AND REFERRAL HOSPITAL BOARD
BILL, 2019**

A Bill for

AN ACT of the County Assembly of Meru to provide a legal framework for establishment of the Meru Teaching and Referral Hospital Board and for matters connected therewith and incidental thereto

ENACTED by the County Assembly of Meru as follows—

PART I—PRELIMINARY

Short title and Commencement

1. This Act may be cited as the Meru Teaching and Referral Hospital Board Act, 2019 and shall come into operation upon publication in the *Gazette*.

Interpretation

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

“board” means the Board of Directors of the Hospital established under Section 3;

“chairperson” means Chairperson of the Board;

“chief officer” means the Chief Officer for the time being responsible for county health services;

“department” means the county department for the time being responsible for health services;

“director” means Director of the Hospital appointed under section 10;

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

“hospital” means the Meru Teaching and Referral Hospital.

PART II—ADMINISTRATION

Establishment of the Meru Teaching and Referral Hospital Board

3. (1) There is established a corporation to be known as the Meru Teaching and Referral Hospital Board which shall be—

- (a) a body corporate with perpetual succession and a seal;
- (b) capable of suing and being sued in its corporate name;

- (c) taking, purchasing or otherwise acquiring, holding, charging or disposing of movable and immovable property;
- (d) borrowing money or making investments;
- (e) entering into contracts; and
- (f) doing or performing all other acts or things for the proper performance of its functions under this Act which may lawfully be done or performed by a body corporate.

Board of Directors

4. (1) The Board of Directors shall consist of—
- (a) a non-executive Chairperson appointed by the Governor and approved by the County Assembly;
 - (b) the Chief Officer in the Department for the time being responsible for matters relating to Health or an officer designated by him or her in writing;
 - (c) the Chief Officer to the County Treasury or an officer designated by him or her in writing;
 - (d) the Director of the Meru Teaching and Referral Hospital; and
 - (e) five other members appointed by the Governor and approved by the County Assembly.

(2) Members of the board appointed under paragraphs (a) and (e) above shall hold office for a term of 3 years from the date of their appointment and shall be eligible for reappointment for a further and final term of 3 years.

(3) persons appointed to the board shall be of mixed expertise and experience for the purpose of providing policy direction and guidance to the Director of the Hospital.

Powers of the Board

5. (1) The Board shall, under the control of the Executive Member for the time being responsible for matters relating to health services, be responsible for the administration, management and development of the hospital established in Meru County known as the Meru Teaching & Referral Hospital (hereinafter referred to as “the Hospital”).

(2) the Board shall be the successor of the County Government of Meru in respect of all rights, duties, obligations, assets and liabilities concerning the Hospital existing at the date of publication of this Act.

(3) All such rights, duties, obligations, assets and liabilities shall be automatically and fully transferred to the Board and any reference to the

County Government or the County Executive Committee Member for Health Services or the Chief Officer, Department of Health Services or the Chief Officer to the County Treasury or the Medical Superintendent, Meru Teaching and Referral Hospital in connection with the Hospital in any written law or in any contract or document shall for all purposes be deemed to be in reference to the Board established under this Act.

(4) Without prejudice to the generality of the foregoing, the Board shall have powers to—

- (a) give policy directions and guidance to the Director of the Hospital;
- (b) control, supervise and administer the assets and liabilities of the Hospital in such manner and for such purposes for which the Board was established;
- (c) promote infrastructural development of the hospital;
- (d) receive any grants, gifts, donations and endowments and to make legitimate disbursements therefrom;
- (e) promote the general welfare of the patients and staff of the Hospital;
- (f) enter into association with other hospitals, health institutions, institutions of higher learning and research organizations within or outside Kenya as the Board may consider desirable or appropriate and in furtherance of the purposes for which the Hospital is established;
- (g) make guidelines for the proper and efficient management of the Hospital which guidelines shall be issued by the Director on behalf of the Board and shall not require to be published in the Gazette but shall be brought to the attention of all those affected or governed by them;
- (h) approve alterations in health financing mechanisms including cost sharing among other charges;
- (i) determine the provision to be made for capital and recurrent expenditure and for reserves for the Hospital; and
- (j) do all such things as are in the opinion of the Board incidental to the exercise of the above mentioned powers or any of them.

Functions of the Hospital

6. The Meru Teaching and Referral Hospital is hereby established for the following purposes—

- (a) to receive patients on referral from other hospitals or institutions within or outside Meru County for specialized health care;
- (b) to provide facilities for medical education to institutions of higher learning and for research either directly or through other co-operating health institutions; and
- (c) to provide facilities for education and training in nursing and other related health sciences.

Conduct of business and affair of the Board

7. The conduct and regulation of the business and affairs of the Board shall be as set out in the First Schedule.

Remuneration of the Board Members

8. The Board shall only be entitled to such allowances as the County Treasury may determine.

Staff of the Board

9. The Board shall competitively appoint suitably qualified staff as may be necessary for the efficient performance of the functions of the Board.

Director of the Hospital

10. (1) There shall be a Director for the Meru Teaching and Referral Hospital who shall be the chief executive and secretary to the Board and shall be competitively recruited by the Board and appointed by the Governor on such terms and conditions as the Governor shall, in consultation with the Board, determine.

(2) No person shall be appointed under this section unless such a person has —

- (a) a postgraduate degree (Masters or Doctorate) in Business, Finance, Economics or other related field from a recognized University; and
- (b) at least 10 years relevant work experience, 5 of which must be at senior level in a large organization.

(3) the Director shall—

- (a) ensure day to day management of the hospital;
- (b) monitor expenses and suggest cost effective measures;
- (c) implement effective policies for all standard operational procedures;

- (d) ensure prompt ordering and stocking of medical and office supplies;
- (e) resolve potential issues with patients;
- (f) ensure maintenance of organized medical and employee records;
- (g) oversee training and induction of new employees; and
- (h) supervise and evaluate all staff.

Removal of Director from Office

11. The Director of the Hospital may be removed or suspended from office by the Governor upon recommendations of the Board for the following reasons—

- (a) expiry of the term of office;
- (b) in the circumstances contemplated under the Anticorruption and Economic Act, 2003;
- (c) conviction of a criminal offence;
- (d) bankruptcy;
- (e) breach of the terms of employment;
- (f) incapacity by prolonged physical or mental illness for a period exceeding six months; and
- (g) being unable, unwilling or unfit to discharge the functions of the office.

Protection From Personal Liability

12. No act or omission by any member of the Board or by any officer, employee, agent or servant of the Board shall, if the act or omission was done bona-fide for the purposes of executing a function, power of duty under the Act render such member, officer, employee, agent or servant personally liable to any action, claim or demand whatsoever.

Common seal of the Board

13. (1) The common seal of the Board shall be kept in such custody as the Board may direct and shall not be used except on the order of the Board.

(2) The affixing of the common seal shall be authenticated by the signature of the Chairperson and Director of the Hospital.

PART III—FINANCIAL PROVISIONS

Funds of the Board

14. (1) The funds of the Board shall comprise—

- (a) such moneys as may be appropriated by the County Assembly;
- (b) such sums as may be realized from Boards business;
- (c) moneys earned or arising from any investment of the funds;
- (d) such grants or transfers as may be received from the national government;
- (e) grants and donations received from any other lawful source; and
- (f) such monies received as user charges, fees payable or insurance payments collectable under this act.

(2) The board shall apply the money provided under this section for the furtherance of the objects and performance of the functions of the board as prescribed under this act.

(3) The board shall open and operate bank accounts into which monies received shall be paid solely for the purposes of managing and administering the funds received.

(4) The funds under this section shall be managed in accordance with the Public Finance Management Act (2012).

(5) The board shall appoint an internal auditor who shall report directly to the board on financial matters of the board.

Financial Year

15. The financial year of the hospital shall be the twelve months ending on thirtieth June in each year.

Annual Estimates

16. At least three months before the commencement of each financial year, the board shall cause to be prepared estimates of the revenue and the expenditure of the Hospital for that year.

Accounts And Audit

17. (1) The board shall cause to be kept all proper books and records of accounts of the income, expenditure and assets of the Hospital.

(2) Within a period of three months from the end of each financial year, the board shall submit to the Auditor-General or to an auditor appointed under this section, the accounts of the hospital together with—

- (a) a statement of the income and expenditure of the hospital during that year, and
- (b) a balance sheet of the hospital during that year.
- (3) The accounts of the hospital shall be audited and reported upon in accordance with the Public Audit Act, 2015.

PART IV — MISCELLANEOUS PROVISIONS

Procurement

18. (1) The hospital 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) The director of the hospital, who is the accounting officer, shall oversee the procurement process with the approval by the County Executive Committee Member for the time being responsible for Finance in accordance with the Public Finance Management Act, 2015.

Specialized Units

19. (1) The director of the hospital shall in consultation with the board designate and facilitate establishment of specialized healthcare units in Meru Teaching and Referral Hospital.

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

(3) The Director of the hospital shall ensure that the specialized units—

- (a) established under this section are well staffed and equipped; and
- (b) are established and managed as model specialized units and centres of excellence in their respective areas of specialization.

Power To Make Regulations

20. (1) The Executive Member may make such regulations as may be necessary for the implementation of this act.

Reporting

21. The Executive Member shall prepare an annual report on the progress of the implementation of this Act, and table the same before the County Executive Committee.

FIRST SCHEDULE

PROVISIONS RELATING TO THE CONDUCT OF BUSINESS AND AFFAIRS OF THE BOARD

Tenure of Office

1. The chairperson and members of the board, other than the government officials, shall hold office for a term of three years and shall be eligible for re-appointment for one further and final term of three years.

Appointment

2. The chairperson and members of the board, shall be competitively appointed.

Vacation of Office

3. A member of the board may—
- (a) at any time resign from office by notice in writing, in the case of the chairperson, to the governor, and in the case of any other member, to the executive member;
 - (b) be removed from office by the governor or the executive member as the case may be, if the member—
 - (i) has been absent from three consecutive meetings of the board without the permission of the board; is adjudged bankrupt or enters into a composition scheme or arrangement with his or her creditors;
 - (ii) is convicted of an offence involving dishonesty or fraud;
 - (iii) is convicted of a criminal offence and sentenced to imprisonment for a term exceeding six months or to a fine exceeding ten thousand shillings;
 - (iv) is incapacitated by prolonged physical or mental illness;
 - (v) is found to have acted in a manner inconsistent with the aim and objectives of this act;
 - (vi) fails to comply with the provisions of this act relating to disclosure; or
 - (vii) is otherwise unable or unfit to discharge his or her functions as member of the board.

Vice-chairperson

4. At the first meeting of the board, the members shall elect a vice-chairperson, from among the members appointed under this act.

Meetings

5. (1) The board shall meet at least 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 five members shall, convene a special meeting of the board at any time for the transaction of the business of the board.

Notice of Meeting

6. Other than in the case of a special meeting or unless three quarters of members agree, every member of the board shall be given at least seven days written notice of every meeting of the board.

Quorum

7. Half of the members, and unless a unanimous decision is reached, decisions shall be by a majority vote of the members present, and in the case of an equality of votes, the chairperson or the person presiding shall have a casting vote.

Chairperson to Preside

8. The chairperson shall preside over all meetings of the board in which he or she is present, but in his or her absence, the vice-chairperson shall preside and in the absence of the vice-chairperson, the members present shall elect one of their members who shall, with respect to that meeting and the business transacted thereat, have all the powers of the chairperson

Disclosure of Interest

9. (1) If a member is directly or indirectly interested in any matter before the board, and is present at the meeting of the board at which the matter is the subject of consideration, he or she shall, at the meeting and as soon as practicable after the commencement, disclose that fact and shall be excluded at the meeting at which the matter is being considered.

(2) a disclosure of interest made under this section shall be recorded in the minutes of the meeting at which it is made.

Board may Regulate own Procedure

10. Subject to the provisions of this Schedule, the board may regulate its own procedure.

SECOND SCHEDULE
TRANSITIONAL PROVISIONS

1. In this Schedule-“commencement day” means the day this Act comes into operation;

2. (1) On the commencement day, all the funds, assets and other property both movable and immovable previously held or allocated to Meru District Hospital shall by virtue of this paragraph, vest in the Board.

(2) On the commencement day, all rights, powers and liabilities that previously were vested in Meru District Hospital, by virtue of this paragraph, be deemed to be vested in, imposed on or enforced against the board.

3. (1) On commencement day, any person who is an officer or employee of Meru County Public Service Board currently discharging duties in Meru District Hospital shall continue under the terms of their current employer.

(2) On commencement day, any person who is an officer or employee of Meru District Hospital shall be deemed to be an officer or employee of the Board under the terms of their current employer.

(3) On commencement, any new recruitment of staff or employees for the Hospital shall be done in accordance with section 9 of this act.

MEMORANDUM OF OBJECTS AND REASONS

The Bill seeks to provide a legal framework for establishment of Meru Teaching and Referral Hospital Board as a body corporate to ensure provision of specialized and quality healthcare to the people of Meru County in accordance with the Constitution and other relevant laws. The Bill seeks to convert the facility as now existing into a top teaching and referral hospital by delinking it from the other health facilities under the County Government.

The Bill also seeks to deal with the issue of inadequate medical personnel, medicines and inadequate facilities at county government hospitals, especially in terms of specialized services including but not limited to ICU, cancer center, MRI, renal units and many others. The Bill also seeks to protect citizens from catastrophic health expenditure associated with specialized healthcare interventions.

PART I of the Bill provides for preliminary provisions. This Part provides for the purpose of the Bill as promoting access to health services, facilitation of realization of the rights to health care as provided for under Article 43 of the Constitution as well as realization of consumer health rights.

PART II of the Bill provides for health services management. The Part provides for the functions of the Meru Teaching and Referral Hospital and prescribes creation of a board of directors to manage the affairs of the Hospital. The mode of appointment and powers of the Board as well as the Director of the Hospital are highlighted.

PART III of the Bill provides for financial provisions, which includes the source of funding and procurement of medicines and medical supplies. The Part provides for funds to administration of this act. It also looks at auditing of the accounts to ensure fiscal responsibility.

PART IV of the Bill provides for miscellaneous provisions, which includes procurement, specialized units and the powers of the Executive Member to make regulations and obligatory health policies that the Executive Member must facilitate their development.

The enactment of this bill will result in additional expenditure of public funds to be provided for through the annual budget estimates.

Dated the 21st day of June, 2019

MARTIN MWORIA MUTHURI,
Chairperson, Sectorial Committee on County Health Services.