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TURKANA COUNTY ACTS, 2020

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ADMINISTRATION ACT, 2020**

No. 7 of 2020

Date of Assent: 6th October, 2020

Date of Commencement: See Section 1

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**THE TURKANA COUNTY HEALTH SERVICES
ADMINISTRATION ACT, 2020**

AN ACT of the County Assembly of Turkana to establish the Turkana County Health Services Administration Fund, to provide for additional funding for the management of health systems and public health facilities improvement in the County, to enable sustainable operations of health facilities, and for connected purposes

ENACTED by the County Assembly of Turkana as follows—

PART I—PRELIMINARY

Short title and Commencement

1. This Act may be cited as the Turkana County Health Services Administration Act, 2020 and shall come into operation upon publication in the *Gazette*.

Interpretation

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

“Administrator of the Fund” means the person designated by the County Executive Committee Member for Finance in accordance with Section 116 of the Public Finance Management Act, 2012;

“Board” means the Turkana County Health Services Administration Fund Board established under section 4;

“County Assembly” means the County Assembly of Turkana;

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

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

“Fund” means the Turkana County Health Services Administration Fund established under section 4;

“user charges” means cost-sharing charges.

Objects and Purpose

3. The objects and purpose of this Act is to—

- (a) establish the Turkana County Health Services Administration Fund;

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- (b) provide for the retention and payment into the Fund of all monies raised or received by or on behalf of the County health facilities;
- (c) provide for specific purposes and functions in the health sector to be delivered through the use of the Fund;
- (d) provide for the appointment of the Health Services Administration Board and committees under this Act; and
- (e) provide for sustainable and participatory administration and management of health services and facilities in the County.

PART II—THE TURKANA COUNTY HEALTH SERVICES ADMINISTRATION FUND

Establishment of the Fund

4. (1) There is established the Turkana County Health Services Administration Fund.

(2) The funds of the Fund shall be utilized exclusively for the purposes of—

- (a) sustainable operations, maintenance of equipment and rehabilitation of health facilities;
- (b) making funds available for day to day operations of county hospitals and health facilities;
- (c) Procurement of emergency medical supplies for county hospitals and health facilities;
- (d) facilitating participation of health sector stakeholders and communities in planning and managing health facilities;
- (e) improving revenue collection and retention from user fees and other grants and donations relating to health services; and
- (f) performing any other functions related to health services, health emergencies and administration of health facilities.

Sources of funds for the Fund

5. (1) The initial capital of the Fund shall be such amount of money as may be appropriated by County Assembly.

(2) There shall be paid into the fund—

- (a) monies appropriated by the County Assembly for operations of health facilities;
- (b) monies received as contributions, gifts or grants from any lawful source;

- (c) monies earned or received as user charges;
- (d) income generated from the proceeds of the Fund;
- (e) funds allocated to the County for the free maternity services; and
- (f) funds received as reimbursement from the National Hospital Insurance Fund.

(3) All monies due to the fund shall be received and paid into the Fund in full and shall be accounted for through the established accounting systems.

(4) The budget estimates for the Fund shall be submitted, together with the estimates of the Department of health and sanitation services after approval by the Board, to county treasury for consolidation.

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

Expenditure on the Fund

6 (1) The expenditure incurred on the Fund shall be on the basis of and limited to annual work programmes and cost estimates prepared by the administrator of the Fund, and approved by the

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

Establishment of the Board

7 (1) There is established the Turkana County Health Services Administration Fund Board.

(2) The Board shall consist of—

- (a) a Chairperson appointed by the Governor with the approval of the County Assembly;
- (a) the Fund Administrator designated by the County Executive member for Finance, who shall be the Secretary;
- (b) the Chief Officer for the time being responsible for matters related to health;
- (c) the Chief Officer of the County department for the time being responsible for finance or his representative;
- (d) the Director in Charge of the County Referral Hospital; and
- (e) three persons with experience in matters related to health or health financing representing private sector, Faith Based

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Organizations and Non-state actors, appointed by the County Executive Committee Member.

(3) In appointing members of the Board, the appointing authority shall have regard to gender balance, youth and persons with disabilities representation.

(4) The County Executive Committee Member shall designate such number of public officers as may be necessary for the effective discharge of the functions of the Board.

(5) The Board may establish such temporary committees as may be necessary for the better discharge of certain specialized functions.

Qualifications for Board Members

8. (1) A person shall not be eligible for appointment as the chairperson of the Board unless such person—

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

(2) A person shall not be appointed as a member of the Board unless that person holds at least a diploma from an institution recognized in Kenya.

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

Functions of the Board

9. (1) The functions of the Board shall be to—

- (a) provide overall design and oversight of the Fund;
- (b) consider, verify and approve funding to hospitals and health facilities;
- (c) receive reports on the performance of the Fund from management boards and committees established under this Act;
- (d) develop and facilitate sectoral linkages with the Fund;
- (e) monitor and evaluate programs and activities under the Fund;
- (f) oversee the management and administration of the Fund.

(2) The Board shall authorize payments out of the fund only on the basis of quarterly budgets approved by hospitals boards and health facilities management committees; and

(3) The Board shall ensure equitable sharing of monies appropriated by the county assembly for operational needs of the hospitals and health facilities.

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

Conduct of Business of the Board

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

Allowances

11. 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 III— ADMINISTRATION OF THE FUND

Functions of the Administrator of the Fund

12. (1) The Administrator of the Fund shall—

- (a) open and operate bank accounts with banks approved by the County Executive Committee Member for Finance;
- (b) supervise and control the administration of the Fund;
- (c) cause to be kept proper books of accounts and other books and records in relation to the Fund;
- (d) prepare, sign and transmit to the Auditor-General, in respect of each financial year and within three months after the end thereof, a statement of accounts relating to the Fund;
- (e) prepare quarterly reports on the receipts into and issues out of the Fund and submit them to the County Assembly;
- (f) develop the criteria for the allocation of funds for approval by the Board;
- (g) prepare, in consultation with the hospital boards or health facility committees, a schedule of annual distribution of resources to health facilities.

(2) Every statement of account shall include details of the balance between the assets and liabilities of the Fund, and shall indicate the financial status of the Fund as at the end of the financial year concerned.

Role of the County Executive Committee Member for Finance

13. The County Executive Committee Member for Finance shall facilitate the operations of the Board in the implementation of the Fund and in particular shall —

- (a) develop policy measures relating to the Fund;
- (b) make regulations to give effect to the objects of the Fund; and
- (c) perform any other functions assigned to him or her under this Act or any other written law.

Disbursement of funds

14. (1) Funds shall be disbursed under the following conditions—

- (a) all disbursements from the Fund shall be approved and minuted by the Board;
- (b) the record of the amounts received by each hospital and health facility and the record of expenditure of amounts so received shall be submitted to the Board within thirty days after the close of the relevant financial year, together with a copy of the relevant bank statements;
- (c) no disbursements for the succeeding financial year shall be made into the accounts until the said records are duly received;
- (d) the Board may impose any other reasonable requirements, including restrictions, on a particular hospital or health facility.

(2) The expenditure incurred on the Fund shall be on the basis of and limited to annual work programmes and cost estimates prepared by the administrator of the Fund, and approved by the Board, at the beginning of the financial year to which they relate.

Fund Administration Costs

15. The administration costs of the Fund shall not exceed three percent (3%) of the approved budgets of the Fund.

Winding-up of the Fund

16. In the event of winding up of the Fund, the cash balances shall be transferred to the County Revenue Fund Account while other assets of the Fund shall be transferred to the Department for the time being responsible for matters relating to Health.

PART IV— HEALTH SERVICES ADMINISTRATION STRUCTURES

County Referral Hospital Management Board

17. (1) There is established a Hospital Management Board for the County Referral Hospital.

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

- (a) the Chairperson appointed by the County Executive Committee Member;
- (b) the area sub-county administrator appointed under Section 50 of the County Government Act, 2012 or his representative nominated in writing;
- (c) the Chief Executive Officer of the Hospital, who shall be the secretary;
- (d) four persons with knowledge and experience in health matters, and who shall be residents of the County, appointed by the County Executive Committee Member.

(3) The County Executive Committee Member shall cause the names of chairperson and members of the County Referral Hospital Management Board to be published in the Gazette.

(4) At least one third of the membership of the County Referral Hospital Management Board shall be from the opposite gender.

(5) Membership of the County Referral Hospital Management Board shall respect and reflect the diversities in the County and special interest groups.

Sub-county Hospitals Management Committees

18. (1) There is established a hospital management committee for each sub-county hospital.

(2) Each committee shall consist of seven members who shall be—

- (a) the Chairperson, appointed by the County Executive Committee Member;
- (b) the area sub-county administrator or his representative nominated in writing;
- (c) the medical superintendent who shall be the Secretary;
- (d) four persons with knowledge and experience in health matters, who shall be residents of the respective Sub-County, appointed by the County Executive Committee Member.

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(3) The County Executive Committee Member shall cause the names of chairperson and members of the sub county hospital management committees to be published in the Gazette.

(4) At least one third of the membership of the sub-county hospital management committee shall be from the opposite gender.

(5) Membership of the sub-county hospital management committees shall respect and reflect the diversities in the sub-county and special interest groups.

Qualifications for appointment

19 (1) A person shall not be eligible for appointment as the chairperson of the County Referral Hospital Board or sub-county hospital management committee unless such person—

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

(2) A person shall not be appointed as a member of the County Referral Hospital Board or sub-county hospital management committee under this Act unless that person holds at least a diploma from an institution recognized in Kenya.

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

Functions of the County Referral Hospital Board and sub-county hospital committees

20. The County Referral Hospital Board and sub-sub-county hospital committees shall —

- (a) be responsible for the supervision of the funds allocated to the respective hospitals;
- (b) open and operate a bank account at a bank to be approved by the County Executive Committee Member responsible for Finance;
- (c) consider recommended activities to be included in the hospital work plans based on the County health sector strategic plan; and
- (d) cause to be kept a permanent records of all its deliberations.

Functions of the chairpersons of the hospital management boards and committees

21. The responsibilities of the chairpersons of the County Referral Hospital Board and the sub-county hospital management committees shall be—

- (a) setting schedules of meetings in consultation with the secretary;
- (b) presiding over the meetings of the board and the respective committees; and
- (c) any other duty as may be assigned by the County Executive Committee Member or the Board.

Functions of the secretaries of the hospital management boards and committees

22. The responsibilities of the secretaries of the County Referral Hospital Board and the sub-county hospital management committees shall be—

- (a) keeping records of the deliberations of the board;
- (b) to communicate decisions of the Board to all the staff and relevant bodies and offices; and
- (c) implementing decisions of the Board.

Meetings of Management Boards and Committees

23. (1) The County Referral Hospital Board and sub-county hospital committees shall meet at least four times in every year and shall maintain records of its deliberations.

(2) Copies of deliberations and records in sub-section (4) above shall be forwarded to the Board not more than one month after the hospital board meetings.

(3) The quorum of the meetings of the County Referral Hospital Board and the sub-county hospital committees shall be at least five members.

Health Facilities Management Committees

24. (1) There is established a health facility management committee in each Health Center and Dispensary in the County.

(2) Each management committee shall comprise of seven members, consisting of—

- (a) the Chairperson who shall be appointed by the County Executive Committee Member;

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- (b) the area ward administrator in respect of health centres;
- (c) the area village administrator in respect of dispensaries;
- (d) the officer in charge of the health facility, who shall be the secretary;
- (e) four other members, with knowledge and experience in health matters, appointed by the County Executive Committee Member, who are residents of the respective area.

(3) A person shall not be qualified to be appointed as a chairperson of a health facility management committee unless that person has post-secondary school certificate.

(4) A member of a committee, other than the *ex-officio* member, shall hold office for a period of three years and shall be eligible for re-appointment for one further term.

Functions of the health facilities management committees

25. The health facilities management committees shall—

- (a) supervise and control the utilization of the funds allocated to the facilities;
- (b) open and operate a bank account at a bank approved by the County Executive Committee Member for Finance;
- (c) cause to be prepared work plans and procurement plans;
- (d) prepare and submit certified periodic financial and performance reports as prescribed;
- (e) cause to be kept a permanent record of all its deliberations.

Submission and approval of budgets

26. (1) At the end of each quarter, the responsible hospitals and or health facility shall prepare a quarterly budget, quarterly implementation and procurement plan.

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

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

(4) The approved budget shall be submitted to the Administrator of the Fund for consideration.

(5) The approved funds shall be disbursed to the hospitals or health facilities within fourteen days after approval.

(6) The Fund Administrator shall prepare a schedule to the county treasury indicating the additional funds the treasury needs to disburse to the health facilities to finance their budgets.

(7) The schedule referred to in subsection (5) shall be accompanied by an authority to incur expenditure.

(8) All the spending units shall prepare monthly, quarterly and annual financial reports in the prescribed format for submission to the respective boards or committees.

Meetings of committees

27. (1) The health facilities management committees shall meet quarterly in each financial year and shall maintain records of its deliberations.

(2) The quorum for the meeting of the health facilities management committees shall be five including the secretary.

(3) The health facilities management committees shall be responsible to the Administrator of the Fund.

Allowances

28. Chairpersons and members of the health management boards and committees shall be paid such allowances as may be approved by the County Public Service Board in consultation with the Salaries and Remuneration Commission.

PART V—MISCELLANEOUS PROVISIONS

Operation of bank accounts

29. (1) The signatory to the accounts of the Fund maintained by the Board shall be the secretary and two other persons appointed by the County Executive Committee Member of the finance.

(2) The signatory to the accounts of the funds for each hospital, dispensary or health centre shall be the officer in-charge or medical superintendent, as the case may be, the chairperson and one other person appointed by the County Executive Committee Member responsible for finance.

(3) The bank signing instructions shall be such that the—

(a) signature of the person designated by County Executive Committee Member in respect of the hospitals shall be mandatory;

- (b) signature of the Chairman of the Dispensary or health centre management committee shall be mandatory.

Funds for Emergency Purposes

30. (1) Where funds disbursed to hospital management boards and committees have been used to facilitate referral of clients in disasters and emergencies of large magnitude, the respective secretaries shall prepare claims by hospitals or health facilities involved in provision of the emergency services for reimbursement by the Board.

(2) The respective board or committee shall seek approval of such expenditure from the County Executive Member responsible for Finance not more than one month after such expenditure has been incurred.

Reports

31. (1) The Board shall prepare an annual report which shall be submitted to the County Assembly for consideration.

(2) The report shall provide for, among others—

- (a) the performance of the Fund against the set targets;
- (b) challenges faced in the implementation of this Act and mitigation measures taken;
- (c) any other matter as may be directed by the County Executive Committee Member or the County Assembly.

Protection from personal liability

32. Nothing done by the Fund Administrator, chairperson, member of the Board or by any person working under the instructions of the Board or the Executive Committee Member shall, if done in good faith for the purpose of executing the powers, functions or duties of the Board under this Act, render such member or officer personally liable for any action, claim or demand.

Penalty

33. A person who contravenes the provisions of this Act for which no penalty is specified or fails to comply with any order or direction given under this Act, shall be punishable with fine not exceeding fifty thousand shillings or a term not exceeding six month or to both.

Regulations

34. The County Executive Committee Member may make regulations generally for the better carrying out of the objects of this Act.

Transition and savings

35. The health management boards and committees in existence shall stand abolished after thirty days of the coming into operation of this Act and shall thereafter be reconstituted within thirty days.

FIRST SCHEDULE

CONDUCT OF BUSINESS AND AFFAIRS OF THE BOARD

Board meetings

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

(2) Notwithstanding the provisions of sub-paragraph (1), above, the chairperson may, and upon requisition in writing by at least four members, shall convene a special meeting of the board 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 otherwise agree, at least fourteen days' written notice of every meeting of the Board shall be given to every member of the Board.

(4) The chairperson shall preside at every meeting of the Board 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 of the chairperson.

(5) Unless a unanimous decision is reached, a decision on any matter before the Board shall be by a majority of votes of the members present and voting and, in the case of an equality of votes, the Chairperson or the person presiding shall have a casting vote.

(6) Subject to subparagraph (5), no proceedings of the Board shall be invalid by reason only of a vacancy among the members thereof.

Conflict of Interest

2. (1) If a member is directly or indirectly interested in an outcome of any decision of the Board or other matter before the Board and is present at a meeting of the Board at which the matter is the subject of consideration, that member shall, at the meeting as soon practicable after the commencement thereof, disclose the fact and shall not take part in the consideration or discussion of, or vote on, any questions with respect to the contract or other matter, or be counted in the quorum of the meeting during consideration of the matter:

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 may permit the member to participate in the deliberations subject to such restriction 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 shall be considered to have a conflict of interest for the purpose 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.

(3) Where the Board becomes aware that a member has a conflict of interest in relation to any matter before the Board, the Board shall direct the member to refrain from taking part, or taking any further part, in the consideration or determination of the matter.

(4) If the chairperson has conflict of interest, he shall, in addition to complying with the other provisions of this section, disclose the conflict that exists to the board in writing.

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

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

(7) The Board shall report to the department of Health service any determination by the Board that a conflict is likely to interfere significantly with performance as above and whether or not the conflict has been eliminated to the satisfaction of the Board.

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

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

(10) A member of the Board who fails to declare conflict of interest where such is the case commits an offence and is guilty of misconduct.

Code of conduct

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

Minutes of the meetings

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

SECOND SCHEDULE

The committee shall submit to the County Government the full list of the Hospital Management Team in the format set out below-

**FORMAT FOR SUBMISSION OF HOSPITAL MANAGEMENT
COMMITTEES**

COUNTY:

HOSPITAL	PROPOSED NAMES	POSITION

COMPLIED BY

SIGN:

CHECKED BY:.....

SIGN

APPROVED BY

SIGN: