

SPECIAL ISSUE

Kenya Gazette Supplement No. 3 (Nyamira County Bills No. 2)



REPUBLIC OF KENYA

KENYA GAZETTE SUPPLEMENT

NYAMIRA COUNTY BILLS, 2022

NAIROBI, 1st April, 2022

CONTENT

Bill for Introduction into the County Assembly of Nyamira —

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MEMORANDUM OF OBJECTS

The Nyamira County Health Facilities Improvement Fund Bill, 2022 seeks to provide for a legal framework for utilization of the revenues raised from the health facilities in form of A-I-A pursuant to sec 109(2)(b) of the Public Finance Management Act 2012 in order to improve quality of care in the facilities and remove financing bottlenecks. It is divided in five parts

PART I of the Bill provides for preliminary provisions which includes title and commencement and the interpretation

PART II of the Bill provides for establishment of the County Health Facility Improvement Fund, Objects and Purposes of the Fund, Fund Bank Account and the attendant matters, criteria for utilisation of the fund by health facilities and the institutional arrangements for the procurement Entities

PART III of the Bill provides for administration of the fund. It provides for procedures for Fund Management, establishment of a Health Facility Management Committees and boards, composition, term of office and the functions thereof, remuneration, procedures for removal of committee/board members from office. This part also provides for procedures for requisition of the Facility Improvement Fund by health facilities and teams, Financial Reporting structures and procedures

PART IV of the Bill provides for general provisions, which include powers of the CEC member to make regulations for ease of implementation

PART V of the Bill provides for transitional clauses that provides for transition of the current committees and Boards appointed under the Nyamira Healthcare Services Fund Act 2015. This part also provides for repealing of the Nyamira Healthcare Services Fund Act 2015

ENOCK OKERO,
Chairman, Health Committee.

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

(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 services 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 is guilty of misconduct

8. The Board shall comply with the code of conduct governing public officers and provisions of Chapter Six of the Kenya constitution 2010.

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

THE NYAMIRA COUNTY HEALTH FACILITY IMPROVEMENT FUND BILL, 2022

ARRANGEMENT OF SECTIONS

Sections

PART I – PRELIMINARY

1—Short Title and Commencement

2—Interpretation

PART II—THE COUNTY HEALTH FACILITY IMPROVEMENT FUND

3—Establishment of the County Health Facility Improvement Fund

4—Objects and Purposes of the Fund

5—Fund Bank Account

6—Criteria for utilisation of the fund by health facilities

7—Procurement Entities

PART III— ADMINISTRATION OF THE FUND

8—Fund Management

9—Establishment of a Health Facility Management Committees

10—Composition of Committees

11—Qualifications

12— Functions of the Committees

13— Term of Office

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15—Dissolution of the Health Facility Management Committee

16— Establishment of Hospital Management Boards

17— Composition of the Boards

18— Functions of the Hospital Boards

19— Sub committees

20—Term of Office

21—Removal of the Board from Office

22—Dissolution of the Hospital Boards

23— Requisition of the Facility Improvement Fund by health facilities and teams

24— Financial Reporting

25— Remuneration of the Committees and Boards

PART IV — GENERAL PROVISIONS

26— Regulations

PART V — TRANSITIONAL CLAUSE

27— Dissolution of committees

28— Repeal

SCHEDULES

FIRST SCHEDULE

PROVISIONS AS TO THE CONDUCT OF BUSINESS AND AFFAIRS OF THE COMMITTEES AND BOARDS

1. The Facility Full Committees and Board shall have maximum of four meetings every year

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. A written notice of board meetings shall be issued at least fourteen days before the scheduled date of the meeting

4. The quorum for the conduct of the business of the Board shall be half the normal membership of the committee or board plus one member including the chairperson or the person presiding.

5. 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 to be transacted thereat, have all the powers of the chairperson.

6. 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.

7. (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 and as soon as practicable after the commencement thereof, disclose the fact and shall not take part in the consideration or discussion of, or vote on, any questions with respect to the contract or other matter, or be counted in the quorum of the meeting during consideration of the matter:

(2) A member of the Board shall be considered to have a conflict of interest for the purposes of this Act if he acquires any pecuniary or other interest that could conflict with the proper performance of his duties as a member or employee of the Board.

(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.

27. The existing committees shall stand dissolved upon commencement of this Act and those created by this Act shall be constituted within 6 months.

Dissolution
Committees of

28. The Nyamira Healthcare Services Fund Act, 2015 is repealed.

Repeal

THE NYAMIRA COUNTY HEALTH FACILITY IMPROVEMENT FUND BILL, 2022

A Bill for

AN ACT of the County Assembly of Nyamira to establish the Nyamira County Health Facility Improvement Fund for the improvement of health care service delivery in health facilities across the County; to provide for administration of the Fund; and for connected purposes

ENACTED by the County Assembly of Nyamira as follows—

PART I — PRELIMINARY

1. This act may be cited as the Nyamira County Health Facility Improvement Fund Act, 2022 and shall come into operation on the date of publication in the *Kenya Gazette*.

Short Title and
Commencement

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

Interpretation

"Chief Officer" means the Chief Officer for the Department of health services;

"Financial year" means the period of twelve months beginning 1st July and ending on the 30th June of the subsequent year

"Fund" means Health Facility Improvement Fund established under section 4;

"Hospital" means gazetted county or sub-county hospital;

"Health facility/ Establishment" means hospitals, health centres, mobile clinics and dispensaries;

"User charges" means cost-sharing charges.

"Primary Healthcare" means essential health care based on practical, scientifically sound, and socially acceptable methods and technology made universally accessible to individuals and families in the community through their full participation and at a cost that the community can afford.

"Environmental Health Unit" means a Unit in the Department of Health dealing with monitoring or mitigating those factors in the environment that affect human health and disease.

PART II—THE COUNTY HEALTH FACILITY IMPROVEMENT FUND

3. (1) There is established a Fund to be known as the Nyamira Health Facility Improvement Fund.

Establishment of the County Health Facility Improvement Fund

(2) The fund shall consist of—

- (a) such monies as may be appropriated for purposes of the Fund by the County Assembly of Nyamira
- (b) sums received as contributions, gifts or grants from any other lawful source;
- (c) monies earned or received as user charges including health insurance reimbursements
- (d) income generated from environmental health services;

4. The objects and purposes of the Facility Improvement Fund are to—

Objects and purposes of the Fund

- (a) provide financial resources to complement medical supplies, rehabilitation and equipment of hospitals in the county;
- (b) support capacity building in management of hospitals;
- (c) give more powers to hospitals and medical facilities to plan and manage the resources under them; and
- (d) support primary healthcare

5.(i) The existing facility bank accounts shall be converted to FIF Accounts

The fund bank Account

(ii) All revenue and any other monies collected from the health facilities shall be deposited in the FIF Accounts opened as provided in sec 5(i) of this act.

(iii) The County Executive Committee Member responsible for Finance shall make regulations on transfer of funds to the FIF Accounts.

6. The monies received in the FIF Accounts from the health facilities shall be utilized as follows;

Criteria for utilisation of the fund by health facilities

- (i) 85% shall be sent back to the collecting facility and the environmental health unit to be utilized

under sec 8 of this act shall prepare a disbursement schedule using criteria provided sec 6 of this act

- (e) The disbursement schedule shall be approved by the Chief Officer responsible for health who shall then submit the schedule accompanied by Authority to Incur Expenditure for each facility to county treasury for disbursement to the recipient facilities within fourteen days
- (f) For avoidance of doubt, the disbursement to Health Facilities shall be done not more than fourteen days after the end of the quarter

24. (1) All the spending units shall prepare quarterly and annual financial reports in a prescribed format provided by the County Treasury

Financial Reporting

(2) The submission of quarterly reports from the spending units shall be by the 15th of the 1st month of the subsequent quarter.

(3)(i) The Chief Officer for Health shall prepare and submit accounts and annual financial statements of the fund to the Auditor-General not later than three months after the end of each financial year pursuant to sec 116(7)(b) of the PFM Act 2012

(ii) submit financial statements to the County Assembly pursuant to sec 116(7)(c) of the PFM Act, 2012.

25. (1) The remuneration of the board shall be as per the relevant Salaries and Remuneration Commission Circulars.

Remuneration of the Committees and Boards

(2) The remuneration payable shall be for a maximum of four full board and subcommittee meetings respectively and which shall not exceed four meetings annually for each committee.

PART IV — GENERAL PROVISIONS

26. (1) The County Executive Committee Member for Finance may make regulations to realise the objectives of this Act.

Regulations

PART V — TRANSITIONAL CLAUSE

the board in any specific issues pertaining to its responsibilities

20. Members of the Boards shall serve for a period of three years renewable once.

Term of Office

21. Any member of the Board can be removed from office by the County Executive Committee Member responsible for health if he/she;

Removal of the Board from Office

- (i) Violates the constitution
- (ii) Is convicted of a criminal offence in a court of law
- (iii) Is serving/holding any political position
- (iv) Dies
- (v) Is declared bankrupt
- (vi) Is absent from three consecutive meetings of the Board without the permission of the chairperson;
- (vii) Resigns in writing.

22. The County Executive Committee Member responsible for health may dissolve the Hospital Boards on account of gross misconduct if the board has been investigated and dissolution recommended by a special committee appointed by the County Executive Committee Member for Health Services or on account of resolution of the County Assembly of Nyamira following a successful petition.

Dissolution of the Hospital Boards

23. (1) (a) Requisition for the funds shall be done on a quarterly basis by each facility using a prescribed format prepared by the Chief Officer for Health Services
- (b) The requisition shall include the quarterly budget, Quarterly implementation Plan and quarterly procurement plan all duly signed by the respective facility chairpersons and secretaries of the committees and boards.
 - (c) The budget shall include evidence of how much revenue the facility has raised in the quarter
 - (d) On receipt of the requisitions approved by the Chief Officer, the Fund Administrator designated

Requisition of the Facility Improvement Fund by health facilities and teams

for operations & maintenance, procurement of additional health commodities & products, offset costs on wages of temporary staff, security and sanitation and all connected purposes.

- (ii) 12% of the collections shall be remitted to the respective Sub County medical officers of health accounts to support Primary healthcare.
- (iii) 3% shall be retained for Administrative costs at the County level.

7. All public health facilities shall be procurement entities as defined in Section 2 of the Public Procurement and Asset Disposal Act, 2015 and the Public Procurement and Asset Disposal Regulations, 2020 shall apply.

Procurement Entities

PART III—ADMINISTRATION OF THE FUND

8. The County Executive Committee Member responsible for Finance shall designate an Administrator and second an Accountant and Auditor to the fund for the purpose of managing the fund.

Fund Management

9. There is established in each Health Facility a Health Facility Management Committee for purposes of management of the Facility Improvement Fund and attendant matters as provided by this act.

Establishment of a Health Facility Management Committees

10. (1) The County Executive Committee Member responsible for Health shall appoint Seven (7) members of the Health Facility Management Committees constituted as follows—

Composition of committees

- (a) A ward administrator in the area of jurisdiction.
- (b) The officer in charge of the health facility, who shall be the secretary.
- (c) Five other persons elected by the host community consisting of—
 - (i) one person who shall have knowledge and experience in finance and administration; and
 - (ii) two persons; one each to represent the youth and women;
 - (iii) one person to represent people with

disability; and

- (iv) one person with knowledge and experience on health matters.

(2) The Committees shall nominate the chairperson from among themselves, who shall be appointed in writing by the County Executive Member for Health Services.

(3) The Committees may co-opt not more than Two persons if it is so unanimously resolved by the members of the committee.

11. (1) (i) the members except those provided under section 10(1)(a)(b)(c) of this act shall be residents of the area where the facility is located and shall be of good standing in the community

Qualifications

- (i) Be a Kenyan citizen.
- (ii) Hold a minimum qualification of a Degree Certificate from a recognized university.
- (iii) Should not be holding or serving in a political position.

12. (1) The Committee shall—

Functions of the Committees

- (a) oversee the administration of the funds allocated to the facilities;
- (b) open and operate a bank account at a bank approved by the County Executive Committee Member responsible for finance;
- (c) cause to prepare work plans and procurement plans for approval by the Chief Officer for Health Services;
- (d) cause to be kept books of accounts of the income, expenditure, assets and liabilities of the facility as prescribed by the relevant laws.
- (e) prepare and submit certified periodic financial and performance reports as prescribed;
- (f) cause to be kept a permanent record of all its deliberations.

(2) The committee may execute its functions through sub committees constituted from its members that shall carry out specific functions.

board.

(4) In case an urgent decision is required, the committee may do so on behalf of the board and where such a decision is made it shall be tabled in the next full board for consideration and ratification.

(ii) *Finance and General Purpose Committee* whose membership shall be—

- (a) Not more than five members with two members from the hospital board and three from the hospital departments as determined by the Board
- (b) The subcommittee will elect adhoc chairman from among the five members.

(5) The functions of the subcommittee shall be—

- (i) to review the hospital budgets as prepared by the hospital.
- (ii) review fiscal management of the hospital, the fees chargeable, its assets and liabilities and make recommendations to the board.
- (iii) It may also perform any other function as directed by the board.

(iii) *Quality of Health Services subcommittee* whose membership shall be;

- (a) Not more than five members with at least two from the hospital board and the rest from the hospital departments as determined by the board
- (b) The subcommittee will elect the chairman from among the five members
- (c) The function of the subcommittee shall be to establish and maintain a hospital quality improvement program, review the hospital quality assessment reports and make recommendations to the board
- (d) Any other function as directed by the board.

(iv) *Special Purpose Committee*

The chairman of the board can constitute a special and *ad hoc* committee to deal with any urgent matters or assist

- (b) operate a bank account at a commercial bank approved by the County Executive member responsible for matters related to finance in the county
- (c) Cause to be prepared work plans and Procurement plans for approval by the County Chief Officer responsible for health matters
- (d) Cause to be kept books of accounts of the income, expenditure, assets and liabilities of the hospital as prescribed by the Chief Officer for Health
- (e) Cause to be prepared Cash flow projections for approval by the chief Officer responsible for Health Services
- (f) Cause to be prepared and submitted to the Chief Officer responsible for Health Services monthly, quarterly and annual financial reports as prescribed by the relevant laws; and
- (g) Cause to be kept a permanent record of all its deliberations.

19. (1) The hospital board may execute its functions through sub committees.

Sub committees

(2) There shall be a maximum of four sub committees where provisions of sec 6(5)(a) of this act are applied. The committees shall be as follows—

- (i) **Executive Committee** whose membership shall be;
 - (a) Chairperson of the hospital board who shall chair the sub committee
 - (b) Chairpersons of two sub committees (Finance & General Purpose Committee and the Quality of Health Services Committee)
 - (c) Secretary of the hospital board.
- (3) The functions of this subcommittee shall be-
 - (i) To prepare the agenda for board meetings
 - (ii) Advise the board on matters related to its functions.
 - (iii) Make recommendations for consideration by the

(3) The Committees shall meet four times in each financial year and shall maintain records of its deliberations.

(4) The quorum for the meeting of the Committees shall be five of all the members excluding the secretary.

(5) The Committees shall be supervised by the respective sub county health management teams.

(6) All the decisions of the Committee will be communicated in writing by the Secretary.

(7) Functions of the chairperson of committees shall include—

- (i) setting schedules of meetings in consultation with other committee members,
- (ii) presiding over committee meetings,
- (iii) approve the formal minutes of the meeting,
- (iv) provide strategic direction for the committee in line with Departmental Strategic plans and County Integrated Development Plan, and
- (v) any other duty as may be assigned by the County Executive Committee member for health services or his/her assignees

13. Committee Members shall serve for a period of three years renewable once.

Term of Office

14. Any member of the committee can be removed from office by the County Executive Committee Member responsible for health if the member—

Removal of a member from Office

- (i) violates the Constitution,
- (ii) is convicted of a criminal offence in a court of law,
- (iii) is elected in any political position,
- (iv) dies,
- (v) is absent from three consecutive meetings of the Board without the permission of the chairperson;
- (vi) is declared bankrupt,
- (vii) Resigns in writing.

15. (1) The County Executive Committee Member responsible for health may dissolve the committees on account of gross misconduct if it has been investigated and dissolution recommended by a special committee appointed by the County Executive Committee Member for Health Services

Dissolution of the Health Centres and Dispensary Committees

(2) The County Executive Committee Member responsible for health may dissolve the committees on account of resolution of the County Assembly of Nyamira following a successful petition.

16. There is established a Non-Executive Hospital Management Board in each Gazetted Hospital in Nyamira County appointed by the County Executive Committee Member for Health Services.

Establishment of Hospital Management Boards

17. (1) (a) The Board shall constitute of seven members consisting of the following—

Composition of the Boards

- (i) the area sub-county administrator appointed under Section 50(1) of the County Governments Act, 2012 or his representative duly nominated by him in writing;
- (ii) the medical superintendent of the respective hospitals who, shall be the secretary;
- (iii) a person with knowledge and experience on health matters;
- (iv) one person who shall have knowledge and experience in finance and administration matters;
- (v) one person who shall represent the people with disability nominated by a recognized organization representing people with disability in the county;
- (vi) one person to represent the youth;
- (vii) one person to represent the women.

(2) The Board may co-opt not more than Two persons if it is so unanimously resolved by the members of the committee.

- (3) (a) (i) The members except those provided under section 17 (1) (a) (i) (ii) (iii) of this act shall be usual residents of Nyamira County and shall be

Requirements of Board Members

of good standing in the community.

- (ii) Shall have a minimum academic qualification of a Degree from a recognized University or its equivalent
 - (iii) Should not be holding or serving in a political position.
 - (iv) Should satisfy the provisions of chapter 6 of the Kenya Constitution 2010.
- (b) In addition to requirements in 2(a) above, the Chairperson of the Board shall have the following qualifications—
- (i) Hold at least a university degree from a recognized university.
 - (ii) Demonstrate a high level of integrity and leadership at senior level either in Public or private sector;
 - (iii) Shall not be a serving state officer.
 - (iv) The person satisfies the provisions of chapter 6 of the Kenya Constitution 2010.
- (c) The Chairperson of the Hospital Board shall have the following responsibilities;
- (i) Convening Hospital Board meetings in conjunction.
 - (ii) Presiding over the board meetings.
 - (iii) Overseeing the formation of sub-committees and integration of their activities with the work of committee
 - (iv) Provide strategic direction for the board in line with Departmental Strategic plans and County Integrated Development Plan
 - (v) Any other duty as may be assigned by the County Executive Committee member for health services or his/her assignees

Qualifications of the Chairperson

Responsibilities of the Chairperson of the Hospital Board

18. The respective hospital boards shall—

- (a) Oversight the administration of the funds allocated to the respective hospitals;

Functions of the Hospital Boards