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NYERI COUNTY BILLS, 2021

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THE NYERI COUNTY HEALTH SERVICES FUND BILL, 2021**A Bill for**

AN ACT of the County Assembly of Nyeri to establish the Nyeri County Health Services 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 Nyeri, as follows—

PART I—PRELIMINARY**Short title and Commencement**

1. This Act may be cited as the Nyeri County Health Services Fund Act, 2021 shall commence upon publication in the *Gazette*.

Interpretation

2. This Act, unless otherwise requires—

“Fund Board” means the Facility Fund Board managing the Nyeri County Health Services Fund established in section 5;

“Chief Officer” means the Chief Officer responsible for health services in the Department of Health;

“Director for Health Services” means the County Director of Health Services appointed by the Nyeri County Public Service Board;

“Executive Member” means the County Executive Committee Member responsible for Health Services;

“Fund” means the Health Services Fund established under section 3;

“Fund Administrator” means the person designated in accordance with section 116(2) of the Public Finance Management Act 2012;

“Health Facility” includes a county hospital, sub-county hospital, health centres, dispensaries and rehabilitation centre run by the County Government of Nyeri;

“Health unit” includes the County Health Management Team;

“Hospital Management Boards” means the hospital boards and Health Facility management committees as established in the Nyeri Health Services Act, 2015;

“Waiver” means a tax waiver in accordance with section 2 of the Nyeri Tax waivers administration Act, 2015.

PART II — ESTABLISHMENT OF THE FUND

Establishment of the Health Services Fund

3. (1) There shall be established a fund to be known as the Nyeri County Health Services Fund.

(2) There shall be paid into the fund—

- (a) such monies received as user fees payable, or insurance payments collectable under this Act;
- (b) any income generated by a health facility from any project initiated by the health facility; or
- (c) any other monies received from a lawful source.

Objects of the Fund

4. The objects and purposes of the Fund are—

- (a) improve the quality of health care services
- (b) ensure facilities have better access to financial resources
- (c) ensure health facilities are more responsive to medical and public health emergencies
- (d) ensure an amount totalling to not less than twenty per cent of the monies are set aside for disbursement and are equitably allocated to primary health services

PART III—ADMINISTRATIVE PROVISIONS

Establishment of the Nyeri County Health Services Fund Board

5. (1) There shall be established a Fund Board for the Nyeri County Health Services Fund.

(2) The Fund shall be administered in accordance with Section 116 of the Public Finance Management Act, 2012.

Membership of the Fund Board

6. (1) The Fund Board shall comprise of no more than nine members as follows—

- (a) Chairperson appointed by the Governor and not a public servant;
- (b) the Chief officer who shall be a member
- (c) the Chief Officer responsible for finance or their representative, who shall be a member;

- (d) the Fund Administrator appointed by the Executive Member for Finance, who shall be the secretary to the Fund Board;
- (e) the County Director of Health Services, who shall be a member
- (f) the chairperson of the Hospital Board, Nyeri Level five hospital (PGH), who shall be a member;
- (g) Chairpersons of three Level IV hospital management boards appointed on a rotational basis for a term of 3 years

(2) The appointment of the representative under section 6(1) (c) shall be done in writing.

Qualification for membership

7. (1) The appointment of the chairperson under section (6)(1) (a) and members under sub-section (e) shall be subject to such criteria—

- (a) satisfying the requirements of Chapter Six of the Constitution; and
- (b) holding a minimum of a bachelor's degree from a university recognized in Kenya;

(2) The Chairperson shall hold office for a term of three(3) years renewable only once.

Rotation of membership

8. The members of the Board appointed under section (6) (1) (h) shall hold office on a rotational basis as determined by the executive member.

Termination of Membership

9. A member shall vacate his/her position as a member of the Fund Board if he/she—

- (a) is absent from three (3) consecutive meetings of the Board without written apology;
- (b) violates Chapter 6 of the Constitution;
- (c) voluntarily resigns from Board;
- (d) dies; or
- (e) is so incapacitated by prolonged physical or mental illness as to be unable to attend and discharge his/her duties.

Functions of the Fund Board

10. (1) The Fund Board shall—

- (a) provide oversight of the administration of the moneys drawn from the Fund;
- (b) mobilize resources for the Fund;
- (c) provide guidance to the Hospital Boards on—
 - (i) proposals on user fees where the Hospital Board seeks to propose new user fees or changes to the old fees structure;
 - (ii) approval of primary health services expenditure plans
- (d) receive reports from the Hospital Boards for its consideration and adoption.

Responsibilities of the Fund Administrator

- 11.** (1) In administering the Fund, the Fund Administrator shall—
- (a) ensure that the earnings of, or accruals to a county public fund are retained in the fund, unless the County Executive Committee member for finance directs otherwise.
 - (b) ensure that money held in the fund, including any earnings or accruals is spent only for the purposes for which the fund is established.
 - (c) prepare accounts for the fund for each financial year not later than three months after the end of each financial year, submit financial statements relating to those accounts to the County Treasury;
 - (d) present the monthly and quarterly financial statements to the County Treasury; and
 - (e) ensure that the accounts for the fund and the annual financial statements relating to those accounts comply with the accounting standards prescribed and published by the Accounting Standards Board from time to time.

Functions of the Hospital Boards

- 12.** (1) The Hospital Boards shall—
- (a) approve budgets, programmes and plans of the health Services;
 - (b) prepare an annual budget and plan to be adopted by the Fund Board;
 - (c) formulate strategies on resource mobilisation;
 - (d) resolve any conflicts that arise amongst health Services whose nature is the allocation of resources, and / or joint programmes;

- (e) supervise health Services, prepare reports and forward to the Fund Board;
- (f) identify implementation challenges and seek corrective actions;
- (g) make policy recommendations on cost sharing, public awareness on health and administration of the fund.
- (h) determine such number of standing committees and composition of ad hoc committees.

Principles of Financial Management for Hospital Boards

13. (1) In financial management, the Hospital Boards shall—

- (a) review the proposed budgets to ensure they are linked to the priorities as outlined in the Quarterly Implementation Plans and Annual Work Plan;
- (b) ensure the proposed budgets are based on the available resources;
- (c) approve the proposed budgets after review; and
- (d) forward the approved budgets to the Health Fund Board for approval

(2) In supervising and controlling the administration of all funds, the Hospital Boards shall—

- (a) ascertain the available funds and their sources;
- (b) guide the Hospital on user fees, unit costs, exemptions and waivers, as prescribed by the Executive Member;
- (c) ensure accounting procedures conform to the Fund regulations and the County Government Financial Management Guidelines;
- (d) ensure compliance with financial planning cycle;
- (e) ensure mitigation against financial risk; and
- (f) ensure internal and external audits are conducted as required under the Fund.

PART III — FINANCIAL PROVISIONS

Opening and operating bank accounts

14. (1) The fund administrator may, subject to the approval of the County Treasury, open a bank account for the purposes of managing any monies received by the Department as grants or donations where appropriate.

(2) The funds collected by the health facility shall be—

- (a) paid into a bank account operated by the fund board in accordance with section 119 of the Public Finance Management Act 2012.
 - (b) the signatories to the bank account maintained under section 14(1)(a) shall be the fund administrator and three other board members appointed by the fund board with the approval of the executive member.
 - (c) the signing instructions shall be such that the signature of the fund administrator shall be mandatory on all payments from the fund account, in addition, any two of the other three signatories.
 - (d) utilized solely for provision of health services in the health facility where the funds are received or generated in accordance with the annual estimates of the health facility as approved by the hospital board or health unit
 - (e) for purpose of sub-section (b) above the provision of health services shall include—
 - (i) purchase medical supplies.
 - (ii) purchase basic medical equipment.
 - (iii) operations and maintenance
 - (iv) support Primary health services
- (3) The Funds under this section shall be managed in accordance with section 109 (2) of the Public Finance Management Act.

Annual Reports

15. The Fund Board shall, within three months after the end of each financial year, prepare and submit to the Executive Member for Finance a report for the immediate preceding year.

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 health services.

PART IV—MISCELLANEOUS PROVISIONS

Guiding Principles

17. (1) The expenditure incurred by a hospital on the services shall be on the basis of approved expenditure plan and authority to incur expenditure.

(2) The receipts, earnings, accruals and the balance of the services at the close of each financial year shall not be paid into the Consolidated Fund but shall be retained by the respective hospital for the purpose for which the service is established.

Administrative regulations

18. In the performance of its functions under this Act, the Executive Member for Finance may, in consultation with the Executive Member make regulations generally for the governance, control and administration of the Fund

Transition and Savings Provisions

19. All members of the Hospital Boards serving before the enactment of this Act shall continue to serve until the lapse of their term or until the appointment of the Hospital Boards as prescribed by the Nyeri Health Services Act, 2015.

Repeal

20. Section 33 of the Nyeri County Health Services Act, 2015 is repealed.

MEMORANDUM OF OBJECTS AND REASONS

The main purpose of the Nyeri County Health Services Act, 2015 is to provide for the management, governance and the administration in the health sector. To achieve this purpose, the Nyeri County Health Services Improvement Fund Bill is proposed to supplement the Nyeri County Health Services Act, 2015 and provide for a fund in accordance with the Public Finance Management Act, 2012 and other matters incidental thereto. The Bill concerns county governments in terms of Article 209 of the Constitution as it contains provisions that affect the functions and powers of the county governments as set out in the Fourth Schedule to the Constitution.

This Bill is a money Bill within the meaning of Article 114 of the Constitution

Dated the 3rd March, 2021.

GIBSON WAHINYA KURIA,
Chairperson, Budget and Appropriation Committee.