LAMU COUNTY CANCER CONTROL ACT, 2019

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LAMU COUNTY CANCER CONTROL ACT

AN ACT of the County Assembly of Lamu to provide for the prevention, treatment and control of cancer and for connected purposes.

ENACTED by the County Assembly of Lamu as follows -

PART I – PRELIMINARY

1. Short title and commencement

This Act may be cited as the Lamu County Cancer Control Act, 2019 and shall come into operation on such date as the County Executive Committee may determine, by notice in the *Gazette*.

2. Interpretation

(1) In this Act, unless the context otherwise requires—

"Board" means the Board of Management established under section 6;

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

"Chairperson" means the Chairperson of the Board appointed under section 6;

"**Director**" means the Chief Executive Officer of the Centre appointed under section 10;

"Centre" means the Lamu Cancer Centre established under section 4;

"medical institution" means a hospital, clinic, dispensary or other place where a diagnosis of cancer is made and includes a medical practitioner practising in

his or her own name;

"medical practitioner" has the meaning assigned to it under the Medical Practitioners and Dentists Act (Cap. 253);

"person with cancer" means a person diagnosed as having cancer;

"register" means the Lamu County Cancer register established under section 20.

Objects and purposes of the Act

The objects and purposes of this Act are to-

3. (a) promote public awareness about the causes, consequences, means of prevention and control of cancer;

- (b) extend to every person with cancer full protection by-
 - (i) guaranteeing the right to privacy of the individual;
 - (ii) outlawing discrimination in all its forms and subtleties;
 - (iii) ensuring the provision of basic health care and social services;
- (c) promote utmost safety and universal precautions in practices and procedures that relate to the treatment of cancer;

(d) positively address and seek to eradicate conditions that cause and aggravate the spread of cancer;

(e) promote access to quality and affordable diagnostic and treatment services for persons with cancer; and

(f) establish the cancer Centre.

PART II – ADMINISTRATION

Establishment of the Centre

4. (1) There is established a body to be known as the Lamu County Cancer Centre.

(2) The Centre shall be a body corporate with perpetual succession and a common seal and shall, in its corporate name, be capable of—

(a) suing and being sued;

(b) taking, purchasing or otherwise acquiring, holding, charging or disposing of movable and immovable property;

(c) charging fees for services rendered by it and requesting for securities for such fees; and

(d) 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.

Functions of the Centre

5. The functions of the Centre shall be to—

(a) advise the County Executive Committee Member on matters relating to the treatment and care of persons with cancer and to advise on the relative priorities to be given to the implementation of specific measures;

(b) encourage and secure the establishment of hospitals, vocational treatment and care centres and other institutions for the welfare and treatment of persons with cancer in the county.

(c) encourage and secure provision of diagnostic, treatment, rehabilitation and other medical care to persons with cancer in those institutions;

(d) co-ordinate services provided in Lamu County for the welfare and treatment of persons with cancer and to implement programmes for vocational guidance and counseling;

(e) collect, analyze and disseminate all data useful in the prevention, diagnosis and treatment of cancer;

(f) collaborate with national and international institutions for the purpose of collecting for the Register and cataloging, storing and disseminating the results of cancer research for the use of any person involved in cancer research in any country;

(g) ensure that accurate figures of persons with cancer are obtained in the county

for purposes of planning;

(h) provide access to available information and technical assistance to all institutions, associations and organizations concerned with the welfare and treatment of persons with cancer;

(i) encourage and secure the care of persons with cancer within their communities and social environment;

(j) establish and support measures that seek to eradicate conditions that cause and aggravate the spread of cancer.

(k) recommend measures to prevent discrimination against persons with cancer;

(I) generally to carry out measures for public information on the rights of persons with cancer and the provisions of this Act; and

(m) encourage and participate in the provision of training on cancer prevention and control.

Board of Trustees

6 (1) The Centre shall be administered by a board to be known as the Board of Trustees of the Centre.

(2) The Board shall consist of the following persons appointed by the County Executive Committee Member —

(a) the Chairperson;

(b) the Chief Officer for the time being responsible for matters relating to health or his designated alternate;

(c) the Chief Officer for the time being responsible for matters relating to finance or his designated alternate;

(d) one person nominated by registered cancer associations based in Lamu County;

(e) the Secretary of the National Council for Science and Technology or his designated alternate;

(f) one prominent philanthropist or industrialist of good standing;

(g) one person nominated by institutions conducting medical research;

(h) the County Attorney or his representative who shall be an *ex-officio* member;

(i) the Director who shall be an *ex officio* member and Secretary to the Board.

(3) No person shall be appointed under subsection (2)(a) unless such person is a registered medical practitioner with more ten years' experience and has sufficient interest in cancer management;

(4) Subject to this Act, all undertakings and things done in the name of, or on behalf of, the Centre, by the Board or with the authority of the Board shall be deemed to have been done by the Centre.

Conduct of business and affairs of the Board

7. (1) The conduct and regulation of the business and affairs of the Board shall be as provided in the Schedule.

(2) Except as provided in the Schedule, the Board may regulate its own procedures.

Powers of the Board

8. (1) The Board shall have all powers necessary for the proper performance of its functions under this Act.

(2) Without prejudice to the generality of the subsection (1), the Board shall have power to—

(a) control, supervise and administer the assets of the Centre in such manner as best promotes the purpose for which the Centre is established;

(b) determine the provisions to be made for capital and recurrent expenditure and for the reserves of the Centre;

(c) receive any grants, gifts, donations or endowments and make legitimate disbursements there from;

(d) open such banking accounts for the funds of the Centre as may be necessary;

(e) invest any funds of the Centre not immediately required for its purposes in the manner provided in section 19;

(f) establish such departments of the Centre to deal with such specific matters as may be necessary; and

(g) undertake any activity necessary for the fulfillment of any of the functions of the Centre.

Remuneration of Board members and staff of the Centre

9. The Board shall pay its members and staff such remuneration or allowances as it may determine upon the advice of the Salaries and Remuneration Commission.

Director of Centre

10. (1) There shall be a Director who shall be competitively recruited by the County Public Service Board and whose terms and conditions of service shall—

(a) be determined by the Board, upon the advice of the Salaries and Remuneration Commission;

(b) be stated in the instrument of appointment or otherwise in writing from time to time.

- (2) No person shall be appointed under this section unless such person has-
- (a) a masters degree in matters relating to cancer from a recognized university;
- (b) at least 3 years post qualification managerial working experience.
- (3) The Director shall—
- (a) be the secretary to the Board; and

(b) subject to the directions of the Board be responsible for the day to day management of the affairs and staff of the Centre.

Staff of the Centre

11. The Centre in consultation with the County Public Service Board may appoint such officers and other staff as are necessary for the proper discharge of its functions under this Act, upon such terms and conditions of service as it may

determine.

Delegation by the Board

12. The Board may, by resolution either generally or in any particular case, delegate to any committee or to any member, officer, employee or agent of the Centre, the exercise of any of the powers or the performance of any of the functions or duties of the Centre under this Act or under any other written law.

Protection from personal liability

13. (1) 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 or duty under the Act render such member, officer, employee, agent or servant personally liable to any, action, claim or demand whatsoever.

(2) The provisions of subsection (1) shall not relieve the Centre of the liability to pay compensation to any person for any injury to him, his property or to any of his interests caused by the exercise of any power conferred by this Act or by failure, whether wholly or partially, of any works.

Common seal

14. (1) The common seal of the Centre 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 of the Centre shall be authenticated by the signature of the Chairperson and the Director and any document not required by law to be made under seal and all decisions of the Board may be authenticated by the signatures of both the Chairperson and the Director.

(3) Notwithstanding the provisions of subparagraph (2) the Board shall, in the absence of either the Chairperson or the Director in a particular matter, nominate one member to authenticate the seal on behalf of either the Chairperson or the Director.

(4) The common seal of the Centre when affixed to a document and duly authenticated shall be judicially and officially noticed and unless and until the contrary is proved, any necessary order or authorization by the Board under this section shall be presumed to have been duly given.

Funds of the Centre

15. (1) The funds of the Centre shall comprise of—

(a) grants, gifts or donations that the Centre may receive as a result of public and private appeal from local and international donors or agencies for the purposes of carrying out its functions.

(b) such fees, monies or assets as may accrue to or vest in the Board in the course of the exercise of its powers or the performance of its functions under this Act or under any written law;

(c) all monies from any other lawful source provided for or donated to the Board; and

(d) such sums as may be appropriated by the County Assembly for the purposes of the Centre.

Financial year

16. The financial year of the Centre shall be the period of twelve months ending on the thirtieth of June in each year.

Annual estimates

17. (1) At least three months before the commencement of each financial year, the Board shall cause to be prepared estimates of the revenue and expenditure of the Centre for that year.

(2) The annual estimates shall make provision for all estimated expenditure of the Centre for the financial year and in particular, the estimates shall provide for—

(a) the payment of the salaries, allowances and other charges in respect of members of the Board and staff of the Centre;

(b) the payment of pensions, gratuities and other charges in respect of members of the Board and staff of the Centre;

(c) the proper maintenance of the buildings and grounds of the Centre;

(d) the maintenance, repair and replacement of the equipment and other property of the Centre; and

(3) The annual estimates shall be approved by the Board before the commencement of the financial year to which they relate and shall be submitted to the County Executive Committee Member for approval and consolidation with the budget of the Health Department.

Accounts and audit

18. (1) The Board shall cause to be kept all proper books and records of accounts of the income, expenditure and assets of the Centre.

(2) Within a period of three months from the end of each financial year, the Board shall submit to the Auditor-General the accounts of the Centre together with—

(a) a statement of the income and expenditure of the Centre during that year; and

(b) a balance sheet of the Centre on the last day of that year.

(3) The accounts of the Centre shall be audited and reported by the Kenya National Audit Office.

Investment of funds

19. The Board may invest any of the funds of the Centre in securities, in which for the time being trustees may by law invest trust funds, or in any other securities or banks which the County Treasury may, from time to time, approve for that purpose.

PART III – CANCER REGISTRY

Cancer register

20. (1) The Centre shall cause to be kept and maintained a cancer register containing the particulars specified under subsection (2).

(2) The Register shall contain particulars on-

(a) the incidence, preference, trends, type and geographical location of which due notification has been given pursuant to section 21;

(b) institutions, associations and organizations, including those controlled and managed by the national, and county governments, that provide care and treatment services for persons with cancer; and

(c) such other matters as the Board may prescribe.

(3) All particulars under subsection (2) and changes in such particulars shall be entered in the Register by the Director as soon as is practicable after receiving notification thereof.

(4) The Director may supply a copy of any entry in the Register upon payment of such fee as the Board may prescribe.

Notification to Centre

21. (1) Every medical institution shall, as soon as reasonably practical after making a diagnosis of cancer on a person, deliver a notification to the Centre for purposes of section 20(2)(a).

(2) A notification under subsection (1) shall—

(a) be in such form as may be prescribed;

(b) specify the type and geographical location of persons with the cancer;

(c) not disclose the name of the person with cancer unless with the consent of the person or his guardian where such person is a minor;

(d) be given not later than sixty days after the diagnosis.

(3) Any person who contravenes the provision of this section commits an offence.

Alteration of register

22. The Board may, at any time, direct that correction be made in respect of any entry which has been incorrectly or fraudulently made.

PART IV – EDUCATION AND INFORMATION

Information, education and communication

23.(1) The Centre shall promote public awareness about the causes, consequences, means of prevention, treatment and control of cancer through a comprehensive county-wide education and information campaign conducted by the county government through the relevant departments, authorities and other agencies.

(2) The education and information campaign referred to in subsection (1) may be carried out in all schools and other institutions of learning, all prisons, remand homes and other places of confinement, amongst the disciplined forces, at all places of work and in all communities throughout the county.

(3) The Centre shall provide training, sensitization and awareness programmes on the prevention, treatment, palliative care and control of cancer for—

(a) employees of all county government departments, authorities and other agencies; and

(b) employees of private and informal sectors;

(c) community and social workers;

(d) media professionals, educators, and other stakeholders involved in the dissemination of information to the public on cancer prevention, treatment and control.

(4) In conducting the education and information campaign referred to in this section, the Centre shall ensure the involvement and participation of individuals and groups affected by cancer.

(5) The information provided under this section shall cover issues such as confidentiality in the work-place and attitudes towards affected employees and workers.

(6) For the purposes of this section the Centre shall ensure training of healthcare providers on proper information dissemination and education on cancer prevention and treatment.

Cancer prevention and control to form part of education syllabus

24. (1) The Centre shall liaise with the national government department responsible for education, to integrate instruction on the causes and ways of preventing cancer, its treatment and palliative care in subjects taught in public and private schools at all levels starting from early childhood education development centers to primary, secondary, and tertiary levels, including informal, non formal and indigenous learning systems.

(2) The Centre shall in collaboration with the national government department responsible for education, develop and implement a training curriculum to be integrated into syllabuses on the prevention and treatment of cancer and the care

of persons with cancer to be taught at all levels starting from early childhood education development centers.

Cancer prevention and control to form part of health care

25. (1) The Centre shall liaise with the county department responsible for public health to ensure that education and information dissemination on the prevention and treatment of cancer and the care of persons with cancer including palliative care, shall form part of health care services by healthcare providers.

(2) For the purposes of subsection (1), the county department responsible for public health in collaboration with the Centre shall provide training for the healthcare providers to acquire skills for proper information dissemination and education on cancer prevention control and palliative care.

Cancer prevention and control dissemination in cities or urban areas

26. Every city or urban area, in collaboration with the Centre, shall conduct an educational and information campaign on cancer prevention, treatment and control within its area of jurisdiction.

PART V – MISCELLANEOUS PROVISIONS

Consent to research

27. (1) No person shall undertake any cancer related human biomedical research on another person or on any tissue or blood removed from such person except—

(a) with the written informed consent of that other person; or

(b) if that other person is a child, with the written informed consent of a parent or legal guardian of the child;

(c) If that person is incapacitated by infirmity, by the legal guardian.

(2) The person whose consent is sought to be obtained under subsection (1) shall be adequately informed of the aims, methods, anticipated benefits and the potential hazards and discomforts of the research.

(3) A person who contravenes any of the provisions of this section commits an offence.

General penalty

28. A person convicted of an offence under this Act for which no other penalty is provided shall be liable to a fine not exceeding two hundred thousand shillings or to imprisonment for a term, not exceeding two years or to both.

Regulations

29. (1) The County Executive Committee Member, on the recommendation of the Centre may make regulations generally for the better carrying out of its functions under this Act.

(2) Without prejudice to the generality of sub section (1), the rules shall prescribe anything which this Act requires to be prescribed.

(3) For purposes of the first appointment of members of the Board under section 6, the County Executive Committee Member shall prescribe the procedures specified under that section notwithstanding the absence of the Centre but subsequent procedures shall be prescribed in accordance with subsection (1) of this section.

SCHEDULE [Section 7.]

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

Tenure of office

The Chairperson or a member of the Board other than *ex officio* members shall, subject to the provisions of this Schedule, hold office for a period of three years, on such terms and conditions as may be specified in the instrument of appointment, but shall be eligible for re-appointment for one further term.

2. Vacation of office

(1) A member other than an *ex officio* member may— (a) at any time resign

from office by notice in writing to the County Executive Committee Member.

(b) be removed from office by the County Executive Committee Member on recommendation of the Board if the member—

(i) has been absent from three consecutive meetings of the Board without its permission;

(ii) is convicted of a criminal offence that amounts to a felony in Kenya;

(iii) is incapacitated by prolonged physical or mental illness for a period exceeding six months;

(iv) is otherwise unable or unfit to discharge his functions.

3. Meetings

(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 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.

(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 quorum for the conduct of the business of the Board shall be half of the total members including the Chairperson or the person presiding.

(5) The members present shall elect one of their number to preside whenever the Chairperson is absent, and the person so elected shall have all the powers of the Chairperson with respect to that meeting and the business transacted thereat.

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

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

(8) Subject to the provisions of this Schedule, the Board may determine its own procedure and the procedure for any committee of the Board and for the attendance of other persons at its meetings and may make standing orders in respect thereof.

4. Committees of the Board

(1) The Board may establish such committees as it may deem appropriate to perform such functions and responsibilities as it may determine.

(2) The Board shall appoint the chairperson of a committee established under subparagraph (1) from amongst its members.

(3) The Board may where it deems appropriate, co-opt any person to attend the deliberations of any of its committees.

(4) All decisions by the committees appointed under subsection (1) shall be ratified by the Board.

5. Disclosure of interest

(1) A member who has an interest in any contract, or other matter present at a meeting shall at the meeting and as soon as reasonably practicable after the commencement, disclose the fact thereof 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 disclosure of interest made under subparagraph (1) shall be recorded in the minutes of the meeting at which it is made.

(3) A member of the Board who contravenes subparagraph (1) commits an offence and is liable to a fine not exceeding two hundred thousand shillings.

6. Contracts and instruments

Any contract or instrument which, if entered into or executed by a person not being a body corporate, would not require to be under seal may be entered into or executed on behalf of the Board by any person generally or specially authorized by the Board for that purpose.