

THE COUNTY GOVERNMENT OF TAITA TAVETA

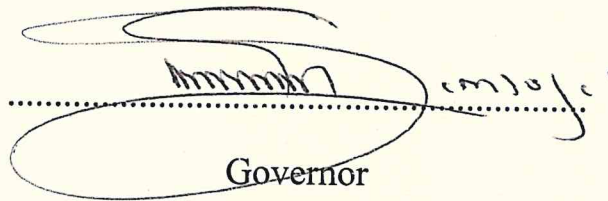
HIS EXCELLENCY THE GOVERNOR

GRANTON GRAHAM SAMBOJA

I assent

25/3/2021

Date


Governor

An Act of the County Assembly of Taita Taveta to provide for the achievement of the highest attainable standard of health as per Article 43(1) (a) and as devolved in Section 2 of Part 2 of the Fourth Schedule of the Constitution of Kenya 2010 on County health services and for connected purposes.

I certify that this printed impression is a true copy of the Bill passed by the County Assembly on the 24TH (Date) MARCH (Month), 2021



.....
Clerk of the County Assembly

Presented for assent in accordance with the provision of the Constitution of Kenya and County Governments Act on the 24TH (Date) MARCH, 2021 at THE COUNTY ASSEMBLY the WEDNESDAY hour of 1638 HRS


County Assembly Speaker

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THE TAITA TAVETA COUNTY HEALTH SERVICES BILL, 2021

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THE TAITA TAVETA COUNTY HEALTH SERVICES BILL, 2021

A Bill for

AN ACT of the County Assembly of Taita Taveta to provide for the achievement of the highest attainable standard of health as per Article 43(1) (a) and as devolved in Section 2 of Part 2 of the Fourth Schedule of the Constitution of Kenya 2010 on County health services and for connected purposes.

ENACTED by the County Assembly of Taita Taveta as follows—

PART 1— PRELIMINARY

Short title

1. This Act may be cited as the Taita Taveta County Health Services Act, 2021.

Interpretation

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

“alternative medicine” means complementary medicine and includes a broad set of health care practices that are not part of that Country’s own tradition and are not integrated into the dominant health care system;

“community health unit” means a health service delivery structure within a defined geographic area covering a population of approximately five thousand people.

“disaster” means but is not limited to an adverse situation or event, which overwhelms local capacity for response and recovery, necessitating external assistance;

“disease” refers to any physical or mental condition that causes pain, dysfunction, distress, social problems or death to the person afflicted or similar problems for those in contact with the person;

“e-Health” means the combined use of electronic communication and information technology in the health sector;

“emergency treatment” refers to necessary immediate health care that must be administered to prevent death or worsening of a medical situation;

“Executive Member” means the County Executive Committee Member for the department responsible for matters relating to health;

“health” refers to a state of complete physical, mental and social well-being and not merely the absence of disease or infirmity;

“health care assistant” includes any person not specifically trained, working with the department under the supervision of a healthcare professional;

“health care professional” includes any person who has obtained health professional qualifications and licensed by the relevant regulatory body;

“health care provider” means a person who provides health care services and includes a health care professional;

“health care services” means the prevention, promotion, management or alleviation of disease, illness, injury, and other physical and mental impairments in individuals, delivered by health care professionals through the health care system’s routine health services, or its emergency health services;

“health facility” means the whole or part of a public or private institution, building or place, whether for profit or not, that is operated or designed to provide in-patient or out-patient treatment, diagnostic or therapeutic interventions, nursing, rehabilitative, palliative, convalescent, preventative or other health service;

“health technology” refers to the application of organized knowledge and skills in the form of devices, medicine, vaccines, procedures and systems developed to solve a health problem and improve the quality of life;

“health unit” includes a hospital, nursing home, convalescent home, maternity home, health centre, dispensary, clinic or other institution where health services are rendered, either free or on payment of fees.

“informed consent” refers to a process of getting permission before conducting a health care procedure on a person;

“major” means a person of the age of majority;

“medical emergency” means an acute situation of injury or illness that poses an immediate risk to life or health of a person or has potential for deterioration in the health of a person or if not managed timely would lead to adverse consequences in the well-being;

“private health services” means provision of health services by a health facility that is not owned by the national or county governments and includes health care services provided by individuals, faith-based organizations and private health institutions;

“public health services” means health services owned and offered by the county government;

“referral” means the process by which a given health facility transfers a client service, specimen and client parameters to another facility to assume responsibility for consultation, review or further management;

“research for health” includes but is not limited to research which seeks to contribute to the extension of knowledge in any health related field, such as that concerned with the biological, clinical, psychological or social processes in human beings improved methods for the provision of health services; or human pathology; or the causes of disease; or the effects of the environment on the human body; or the development or new application of pharmaceuticals, medicines and other preventative, therapeutic or curative agents; or the development of new applications of health technology;

“resident” means a person who has permanent residence in the County, and has lived within the County for a continuous period of 5 years;

“risk” means probability or threat of damage, injury, liability, loss or any other negative occurrence caused by external or internal vulnerabilities that may be avoided through pre-emptive action; and

“traditional medicine” includes the knowledge, skills and practices based on the theories, beliefs and experiences indigenous to different cultures, whether explicable or not, used in the maintenance of health as well as in the prevention, diagnosis, improvement or treatment of physical and mental illness.

Objects of the Act

3. The object of this Act is to-

- (a) promote access to health;
- (b) establish a county health system which encompasses public and private institutions and providers of health services in the county and facilitate in a progressive and equitable manner, the highest attainable standard of health services;
- (c) protect, respect, promote and fulfill the health rights of all persons in the County to the progressive realization of their right to the highest attainable standard of health, including reproductive health care and the right to emergency medical treatment;
- (d) To provide for a framework to allow the Health sector and health facilities retain monies received in accordance with the provision of Section 109(2) (b) as read with Section 116(1) of the Public Finance Management Act 2012; and
- (e) Establish a Taita-Taveta County Facility Improvement Fund.

Principles of Health Service Delivery

4. (1) Health services shall be available, accessible, acceptable, affordable and of good quality and standard;
- (2) Every person shall have the right to be treated with dignity, respect and have their privacy respected in accordance with the Constitution and this Act.

PART II –ADMINISTRATION AND MANAGEMENT OF HEALTH SERVICES

Establishment of Health facilities

5. There shall be—

- (a) at least one county hospital
- (b) at least one sub county hospital in each sub county
- (c) at least one health centre in each ward
- (d) such number of dispensaries and community health units in each ward as per the WHO norms and standard

Duties of the Department

6. The county government department responsible for health shall, in furtherance of the functions assigned to it under the Fourth Schedule of the Constitution be responsible for—

- (a) implementing the national and county health policies and standards as laid down by national government and county department responsible for health;
- (b) service delivery, including the maintenance, financing and further development of those health services and institutions that have been devolved to it;
- (c) coordination of health activities in order to ensure complementary inputs, avoid duplication and provide for cross-referral, where necessary to and from institutions in other counties;
- (d) procuring and managing health supplies;
- (e) maintaining standards of environmental health and sanitation as laid down in applicable law;
- (f) providing access and practical support for monitoring standards compliance undertaken within the county by the national government department responsible for health and professional regulatory bodies established under any written law;
- (g) providing access and practical support for technical assistance, monitoring and evaluation, research for health by the national and county government department responsible for health;
- (h) developing supplementary sources of income for the provision of services, in so far as these are compatible with the applicable law;
- (i) reporting, according to standards established by law, on activities, development and the state of finance within the county health services;

- (j) making known to the public at all times the health facilities through which generalized or specialized services are available to them;
- (k) developing and promoting public participation in the planning and management of local health facilities so as to promote broad ownership;
- (l) ensuring and coordinating the participation of communities in the governance of health services at the county level so as to promote a participatory approach in health care governance; and
- (m) provide for medical audit of deaths in health units and community with a special emphasis on maternal and perinatal deaths as a tool for the further development of obstetric and perinatal care;
- (n) Establishment of community health units and appointment and training of community health volunteers who shall offer supportive health services at community level.
- (o) The Department shall ensure that the community health volunteers get monthly stipend allowance as will be regulated by the Executive Committee Member in accordance with the Fourth schedule.

Establishment and composition of the County Health Management Board

- 7. (1) There is hereby established the County Health Management Board.
- (2) The board referred to in subsection (1) above shall consist of—
 - (a) a chairperson appointed by the Governor with the approval of the County Assembly;
 - (b) the county executive member for the time being responsible for matters relating to health services or his representative duly nominated by him in writing whom shall be an *ex-officio* member;
 - (c) chief officer for the time being responsible for finance or his representative duly nominated by him in writing whom shall be an *ex-officio* member;
 - (d) chief officer for the time being responsible for health or his representative duly nominated by him in writing whom shall be an *ex-officio* member;
 - (e) County director of health who will be the secretary and who shall be appointed in accordance to section 19 of the Health Act No. 21 of 2017; and

- (f) seven persons of whom not more than two-thirds shall be of the same gender appointed by the Governor with the approval of the County Assembly and of whom;
 - (i) one shall be appointed by virtue of his or her knowledge or experience in financial management;
 - (ii) one shall be appointed by virtue of his or her knowledge or experience in health care delivery management;
 - (iii) one shall be appointed by virtue of his or her expertise and experience as a medical practitioner;
 - (iv) one person nominated by a joint forum of health non-governmental organizational network in the county appointed by the Governor;
 - (v) one person nominated by a joint forum of faith based organization or network in the county appointed by the Governor with the approval of the County Assembly;
 - (vi) one person from the special interest groups appointed by the Governor;
 - (vii) One person nominated by a joint forum of registered the business communities within the County

Qualification

- 8. A person shall not be nominated and appointed to the board by the Governor under subsection (2)(a) unless the person;
 - (a) is a citizen of Kenya;
 - (b) is a resident within Taita Taveta County; not less than five years
 - (c) holds a degree from a university recognized in Kenya;
 - (d) meets the requirements of chapter six of the constitution; and
 - (e) has at least five years' experience in matters relating to the provision of public services.

Term of Office

- 9. The final term of office of members of the board unless ex-officio shall be three years which may be renewed for one term.

Functions of the Board

- 10. (1) The Board shall be responsible for—
 - (a) Making recommendation on the county consolidated health Budgets and work plans prepared before submission to the county executive member responsible for matters relating to health;
 - (b) Distribution of resources on need to need basis to the health facilities;
 - (c) review and approve annual financial and non-financial statements and reports before -
 - (i) submission to the chief officer responsible for the time being for matters relating to health; and
 - (iii) providing oversight over the administration of health facilities and units in the county;
- (2) The County Health management Board may delegate one or more of its functions to an appropriate person where it deems necessary.
- (3) The Chairperson of the County Health management board may appoint special/ad hoc committees to deal with urgent matters relating to hospital operations when necessary to assist the board in the management of some of its responsibilities.
- (4) Members of a special/ad hoc committee need to be members of the board and the tenure of this committee shall be specified upon its appointment.

County Health Management Board sub-committees

- 11. The County Health Management Board shall have the following sub-committees
 - (a) Executive sub-committee
 - (b) Finance and general purpose sub-committee
 - (c) Quality of health care services sub-committee

Executive sub-committee

- 12. The Executive sub-committee shall consist
 - (a) chairperson
 - (b) vice chairperson
 - (c) secretary
 - (d) chairpersons of the Finance and General

purpose and Quality of health care sub committees

- (2) The chairperson of the County Health Management Board shall serve as the executive sub-committee chairperson.

Finance and general purpose Sub-Committee

13. (1) The Finance and General purpose sub-committee shall consist of not more than five persons whom shall be members of the County Health Management Board.
- (2) The members shall elect a chair to the sub-committee.
- (3) It shall be the duty of the finance sub-committee to review the annual operating and capital budgets; to review the fiscal management in the hospitals and its assets and liabilities and to move recommendations relating thereto to the County Health Management Board and to perform such other duties as may be assigned by the board

Quality of Health Care services Sub- Committee

14. (1) The Quality of health care services sub-committee shall consist of not more than five persons whom shall be members of the County Health Management Board.
- (2) The members shall elect a chair to the sub-committee.
- (3) It shall be the duty of the Quality of health care services sub-committee to establish and maintain an effective hospital-wide quality improvement program, which is broad in scope and measures, assesses, and improves the performance of the hospital and its quality and appropriateness of services.
- (4) The committee shall be responsible for-
 - (a) review the hospital quality assessment reports and make recommendations for improvement where problems are identified to the board;
 - (b) Oversee Inspection and approval or disposal of either expired or unfit commodities delivered to the Department;
 - (c) Oversee the inspection and acceptance of all health commodities delivered to the health department;
 - (d) Ensuring that the medical supplies are of good quality and meet the standards prescribed under law.
- (5) The committee may co-opt not more than three members from the hospital departments as and when necessary

The Secretariat

15. The Committee shall draw its secretariat through the secretary of the County Health Management Board, membership of whom shall be drawn from various hospital department and shall not be more than three members

Hospital Management Board

16. (1) There is established the Hospital Management board for County and Sub-County hospital which will work as the link between the Hospital and the community itself.
- (2) The board referred to in subsection (1) above shall comprise of—
 - (a) a chairperson appointed by the Governor on the recommendation of the County Executive member responsible for health
 - (b) the medical superintendent of the hospitals who shall be the secretary;
 - (c) Seven persons appointed by the Governor who shall be residents of the area of jurisdiction from the following categories;
 - (i) accounting officer responsible for matters relating to health
 - (ii) one person nominated by a joint forum of women groups involved in the provision of health services within the County;
 - (iii) one person nominated by a joint forum of persons with disabilities organization within the county;
 - (iv) one person nominated by a joint forum of health professional organization within the county or sub county.
 - (v) one person nominated by a joint forum of Non-governmental organizations providing health services in the County
 - (vi) one person nominated by the business community representation
 - (vii) one person representing the youth
- (3) The vice chairperson shall be elected by the appointed members during their first meeting

- (4) A person shall not be nominated and appointed to the board by the Governor under subsection (2) unless the person:
 - (a) is a citizen of Kenya;
 - (b) be a resident in the County for not less than 5 years
 - (c) holds a degree from a university recognized in Kenya;
 - (d) meets the requirements of chapter six of the constitution; and
 - (e) has at least five years' experience in matters relating to the provision of public services.

- (5) the final term of office of members of the board unless ex-officio shall be three years which may be renewed for one term.

Functions of the Hospital Management Board

- 17. The Hospital Management Board shall be responsible for—
 - (a) providing oversight to the hospital management team to improve the health status of the community;
 - (b) providing necessary checks and balances for the use of all resources available to the hospital;
 - (c) making decisions that will improve the hospital, ensure continuity while keeping in line with county government policies;
 - (d) overseeing the prudent utilization and reporting of all resources under their responsibility;

- (2) The Board may make recommendations to the Executive Member on any matter necessary for better management and operation of the hospital.

- (3) The Board may coopt a person with relevant expertise necessary to assist the Board determine a matter before it

Health Centre and Dispensary Committee

- 18. (1) A Health Centre or Dispensary shall be administered by a Committee which shall comprise of—
 - (a) Area Member of County Assembly representative.

- (b) ward administration
- (c) Representative of the office of the member of County assembly
- (d) The officer in charge of the health centre or dispensary who shall be the secretary who shall be an *ex-officio* member
- (e) Public Health Officer in charge of the sub-County who shall be an *ex-officio* member
- (f) The following persons who shall be residents of the health facility catchment area, elected by the community through a consultative process and appointed by the Executive member in consultation with the area Member of the County Assembly;
 - (i) One person who shall have knowledge and experience in finance and administration matters who shall be the chairperson
 - (ii) One person to represent the youth's groups
 - (iii) One person to represent recognized community based organizations
 - (iv) One person to represent interest groups (vulnerable and marginalized communities, minorities).

(2) A person shall not be eligible for appointment as a chairperson of a health center or a dispensary unless the person-

- (a) possess at least a diploma from a recognized institution;
- (b) meets the requirement of Chapter Six of the Constitution;
- (c) has at least three year experience in management leadership or administration; and
- (d) a resident in the Ward or County

(3) A person shall not be eligible for appointment as a member under subsection (1) (f) unless the person-

- (a) possess at least a post-secondary education certificate from a recognized institution;
- (b) has at least three years' experience in community health, development administration or leadership; and
- (c) a resident in the Ward

Term of Office

19. The final term of office of members of the committee unless ex-officio shall be three years which may be renewed for one term.

Functions of Health and Dispensary Committees

20. (1) The functions of the committee shall be—

- (a) Oversee the general operations and management of the health centre or dispensary
- (b) Represent, articulate and communicate community interests on matters pertaining to health services at the facility
- (c) Oversee the administration of the funds allocated to the facility
- (d) Approve prepared health facility work plans and budget based on estimated expenditures
- (e) Provide oversight on basic books of accounts and records of accounts of the income, expenditure, assets and liabilities of the facility according to the existing laws and regulations
- (f) Approve and facilitate timely submission of periodic financial and performance reports to the county director of health and sub-county health management team
- (g) Keep a record of all deliberations
- (h) Facilitate feedback process to the community, pertaining to the operations and management of the health facility
- (i) Ensure safe and good working environment in accordance to recognized National and International Occupational safety and Health Laws, policies and standards.

- (2) The conduct of business of the Health centre and dispensary committee shall be as provided for in the fourth schedule

Management of County Health Facilities

21. (1) Subject to section 16 and 18-
- (a) the Medical Superintendent shall be responsible for the day to day management of a hospital; and
 - (b) the Officer-in-charge of the a health center or a dispensary shall be responsible for the day to day management of the health center or dispensary.
- (2) The Executive Member shall prescribe the manner of management of community health unit which shall include among others-
- (a) linkages and integration with health facilities;
 - (b) supervisory mechanism; and
 - (c) reporting mechanism.
- (3) Boards of hospitals and Committees of health centers or dispensaries shall submit quarterly management reports to the Executive Member which shall include among others-
- (a) financial reports;
 - (b) matters related to human resource management; and
 - (c) status of service delivery in the health facility.

PART III - RIGHTS AND DUTIES

Reproductive Healthcare

22. (1) Every person has a right to reproductive health care which includes—
- (a) the right of men and women of reproductive age to be informed about, and to have access to reproductive health services including to safe, effective, affordable and acceptable family planning services, except elective abortions;
 - (b) Access to treatment by a trained health professional for conditions occurring during pregnancy including abnormal pregnancy conditions, such as ectopic, abdominal and molar pregnancy, or any medical condition exacerbated by the pregnancy to such an extent that the life or health of the mother is threatened.
- (2) For the purposes of subsection (1) (b), the term “a trained health professional” shall refer to a health professional with formal

medical training at the proficiency level of a medical officer, a nurse, midwife, or a clinical officer.

- (3) Any procedure carried out under subsection (1) (a) or (1) (b) shall be performed in a legally recognized health facility with an enabling environment consisting of the minimum human resources, infrastructure, commodities and supplies for the facility as defined in the norms and standards developed under this Act.

Emergency Treatment

23. (1) Every person has the right to emergency medical treatment.
- (2) No person shall be denied emergency treatment by the health service provider of first contact.
- (3) For the purposes of this section, emergency medical treatment shall include-
 - (a) pre-hospital care;
 - (b) stabilizing the health status of an individual; or
 - (c) arranging for referral in cases where the health provider of first call does not have facilities or capability to stabilize the health status of the victim.
- (4) Any person in charge of a health care provider who fails to provide emergency medical treatment while having ability to do so commits an offence and is liable upon conviction to a fine not exceeding Kenya Shillings Five Hundred Thousand shillings or imprisonment for a period not exceeding six months or both.

User's Right to Information

24. (1) Every health care provider shall inform a user or, where the user of the information is a minor or incapacitated, inform the guardian of the -
 - (i) user's health status except in circumstances where there is substantial evidence that the disclosure of the user's health status would be contrary to the best interests of the user;
 - (ii) range of promotive, preventive and diagnostic procedures and treatment options generally available to the user;
 - (iii) benefits, risks, costs and consequences generally associated with each option; and
 - (iv) user's right to refuse recommended medical options and explain the

implications, risks, and legal consequences of such refusal.

- (2) The health care provider concerned must, where possible, inform the user as contemplated in subsection (1) in a language that the user understands and in a manner which takes into account the user's level of literacy.
- (3) Where the user exercises the right to refuse a treatment option, the health care provider may at its discretion require the user to confirm such refusal in a formal manner.
- (4) In this section, the word "user" refers to any person who seeks or intends to seek medical care from a health care provider and the expression "health care provider" includes any health facility.

Consent

25. (1) No specified health service may be provided to a patient without the patient's informed consent unless-
 - (a) the patient is unable to give informed consent and such consent is given by a person –
 - (i) mandated by the patient in writing to grant consent on his or her behalf; or
 - (ii) authorized to give such consent in terms of any law or court order;
 - (b) the patient is unable to give informed consent and no person is mandated or authorized to give such consent, but the consent is given by the next of kin;
 - (c) the provision of a health service without informed consent is authorized by an applicable law or court order;
 - (d) the patient is being treated in an emergency situation;
 - (e) failure to treat the user, or a group of people which includes the user, will result in a serious risk to public health; or
 - (f) any delay in the provision of the health service to the patient might result in his or her death or irreversible damage to his or her health and the patient has not

expressly, or by implication or by conduct refused that service.

- (2) A health care provider must take all reasonable steps to obtain the user's informed consent.
- (3) For the purposes of this section "informed consent" means consent for the provision of a specified health service given by a person with legal capacity to do so and who has been informed as provided for in this section.

Confidentiality

- 26. (1) Information concerning a user, including information relating to his or her health status, treatment or stay in a health facility is confidential except where such information is disclosed under order of court or informed consent for health research and policy planning purposes.
- (2) Subject to the Constitution and this Act, no person may disclose any information contemplated in subsection (1) unless-
 - a the user consents to such disclosure in writing;
 - (b) a court order or any applicable law requires such disclosure; or
 - (c) Non-disclosure of the information represents a serious threat to public health.
- (3) Any proposed disclosure of information under subsection 2 (c), shall be subject to regulations published by the County Executive member responsible for health, from time to time

Healthcare providers.

- 27. (1) The rights and duties of healthcare providers shall include -
 - (a) not to be unfairly discriminated against on account of any of the grounds set out in Article 27(4) of the Constitution;
 - (b) the right to a safe working environment that minimizes the risk of disease transmission and injury or damage to the health care personnel or to their clients, families or property;
 - (c) the right to refuse to treat a user who is physically or verbally abusive or who sexually harasses him or her except in an emergency situation where no alternative health care personnel is available;

- (d) the right to apply for and accept a salaried post in the public service or the private sector.
- (2) All healthcare providers, whether in the public or private sector, shall have the duty –
- (a) to provide health care, conscientiously and to the best of their knowledge within their scope of practice and ability, to every person entrusted to their care or seeking their support;
 - (b) to provide emergency medical treatment as provided for under section 15;
 - (c) to inform a user of the health system, in a manner commensurate with his or her understanding, of his or her health status:
 Provided that where this would be contrary to the best interests of the user, then in such cases, the requisite information should be communicated to the next of kin or guardian as case may be.

Duties of User

28. A user of the health system has the duty, in so far as it is within users –
- (i) to adhere to the rules of a health facility when receiving treatment or using the health services provided by the establishment;
 - (ii) to adhere to the medical advice and treatment provided by the establishment;
 - (iii) to supply the healthcare provider with accurate information pertaining to his or her health status;
 - (iv) to cooperate with the healthcare provider;
 - (v) to treat healthcare providers and other users with dignity and respect and to follow hospital regulations;
 - (vi) seek medical treatment promptly; and
 - (vii) if so requested, to sign a discharge certificate or release of liability if he or she refuses to accept or implement recommended treatment.

Complaints

29. (1) Any person has a right to file a complaint about the manner in which he or she was treated at a health facility and have the complaint investigated appropriately.
- (2) The County Executive Member in charge of health shall establish and publish the procedure for the laying of complaints within public and private health care facilities in those areas of the county health system for which they are responsible.

- (3) The procedures for laying complaints shall-
 - (c) be displayed by all health facilities in a manner that is visible for any person entering the establishment; and
 - (b) be primarily handled by the head of the relevant facility or any person designated by the facility as responsible for handling user complaints.
- (4) Every complainant under subsection (1) has a right to be informed, in writing and within a period of one (1) month from the date the complaint was lodged, of the action taken or decision made regarding the complaint.
- (5) Where a health facility fails to resolve a complaint to the satisfaction of the complainant, the County Executive Member in charge of health shall take necessary action.

Duties of County Government

30. (1) The county government shall–

- (a) offer technical support with emphasis on health system strengthening;
- (b) develop and implement measures to promote equitable access to health services within the county, with special emphasis on eliminating the disparity in realization of the objects of this Act;
- (c) develop and promote application of norms and standards for the development of human resources for health including affirmative action measures for health workers working in hard to reach areas;
- (d) develop, through regulatory bodies, standards of training and institutions providing education to meet the needs of service delivery;
- (e) through respective regulatory bodies to develop and ensure compliance on professional standards on registration and licensing of individuals in the health sector;
- (f) coordinate development of standards for quality health service delivery;
- (h) coordinate all health aspects of disaster and emergencies;
- (i) ensure through intergovernmental mechanisms that financial resources are mobilized to ensure uninterrupted access to quality health services within the County;

- (j) promote the development of public and private health institutions to ensure their efficient and harmonious development and in the common interest work towards progressive achievement of the right to health;
 - (k) provide for the development and expansion of a county health information management system;
 - (l) facilitate all forms of research that can advance the interests of public health;
 - (m) promote the use of appropriate health products and technologies for improving the quality of health care;
 - (n) collaborate in the common interest with the health authorities of other counties, countries and with national, regional and international bodies in the field of health; and
 - (o) provide policy guidelines in public-private partnerships for health to enhance private sector investment.
- (2) The County Executive Member responsible for Health shall make regulations on any matter where it is necessary or expedient in order to implement any provision of this Act;

Public Health Facilities

31. The county government shall ensure the progressively equitable distribution throughout the county of such publicly owned health institutions, including hospitals, health centers, pharmacies, clinics and laboratories, as are deemed necessary for the promotive, preventive and rehabilitative health services.

PART IV –PROMOTION AND ADVANCEMENT OFPUBLIC AND ENVIRONMENTAL HEALTH

Public and Environment Health

32. (1) The County health system shall devise and implement measures to promote health and to counter influences having an adverse effect on the health of the people including—
- (a) interventions to reduce the burden imposed by communicable and non-communicable diseases and neglected diseases, especially among marginalized and indigent population;
 - (b) interventions to promote healthy lifestyle including physical activity, counter the excessive use of

alcoholic products and the adulteration of such products, reduce the addictive substances and to counter exposure of children and others to the same;

- (c) general health education of the public;
- (d) a comprehensive program to advance reproductive health including—
 - (i) effective family planning services;
 - (ii) implementation of means to reduce unsafe sexual practices;
 - (iii) adolescence and youth sexual and reproductive health;
 - (iv) maternal and neo- natal and child health;
 - (v) elimination of female genital mutilation; and
 - (vi) Maternal and child nutrition and micro nutrient supplementation.

(2) The county health system shall ensure that measures for managing environmental risk factors to curtail occurrence and distribution of diseases are put in place and implemented. In particular such measures shall target—

- (a) the reduction of disease burden arising from poor environmental-hygiene, sanitation, occupational-exposure and environmental pollution;
- (b) the reduction of morbidity and mortality from waterborne, airborne, foodborne and vector transmitted diseases, and mitigate the health effects of climate change;
- (c) the reduction of morbidity, mortality, arising from prolonged hospital stays, antibiotic resistance that emanate from health care acquired infections;
- (d) the strengthening of county capacity to address or forestall transmission of diseases of international concern; and
- (e) Building community capacity in providing solutions to public health challenges.

Control of undertakings that sell food

33. (1) The county department responsible for health shall license and regulate all undertakings that sell, distribute or supply food.

- (2) The county department responsible for health shall set standards, develop and enforce guidelines on food handling.

Refuse Removal, Dumps and solid waste disposal

34. The county department responsible for health shall collaborate with the relevant County Government department responsible for matters relating to the Environment by devising measures including but not limited to advisory roles on refuse removal, refuse dump and solid waste disposal and response to biohazard safety.

Policies

35. (1) Pursuant to meeting the objects of this Act, the County government department of health may formulate strategic and operation policies that shall provide for measures that may include-
 - (a) ensuring and promoting the provision of quarantine especially around the borders and frontiers health services;
 - (b) ensuring that food and water available for human consumption are hygienic and safe;
 - (c) ensuring houses, institutions, hospitals and other public places maintain environment to the highest level of sanitation attainable to prevent, reduce or eliminate environmental health risks;
 - (d) developing risk-based, sustainable, integrated food safety systems, occupational health practices, water safety systems, appropriate housing, and vector and vermin control;
 - (e) strengthening infection prevention and control systems including health care waste management in all health facilities;
 - (f) mobilizing resources including human resources for action;
 - (g) promoting the public health and the prevention, limitation or suppression of preventable diseases including communicable and non-communicable diseases;
 - (h) ensuring provision of environmental health and sanitation mechanisms to prevent and guard against the introduction of infectious disease into Kenya from outside;
 - (i) dissemination of public health guidelines within the county in regard to matters affecting the public health from the environment and sanitation;
 - (j) promoting disease surveillance in connection with the prevention of environmental, food, water and sanitation related diseases; and
 - (k) addressing all issues pertaining to environmental hygiene and sanitation.

Primary Health care

36. (1) The community unit, dispensary and health center shall be the basic units of primary health care.
- (2) The Department shall develop and coordinate implementation of primary health care policies and programs as prescribed by World Health Organization and the national policy.
- (3) The Executive Member shall ensure that the each community unit, dispensary and health center is resourced sufficiently in order to enable it provide primary health care.
- (4) The Department shall carry out community health outreach as it may deem appropriate.

PART V- HEALTH PLANNING AND MANAGEMENT

Health Plan

37. In accordance with the County Governments Act, 2012, the Department shall prepare a five-year health plan which shall provide among others for-
- (a) investment in physical infrastructure in the County health facilities;
 - (b) human resource strategy and development;
 - (c) strategies for controlling key risk factors including tobacco use and alcohol abuse;
 - (d) specific and targeted strategies for controlling and mitigating the impact communicable and non communicable diseases and conditions as well as injuries prevention;
 - (e) implementation of national policies at the County level;
 - (f) strategies for health promotion as stipulated under section 31;
 - (g) strategies for community engagement and action; and
 - (h) any other matter that the Executive Member may require.
- (i) The health plan may provide for specific targeted interventions based on the Sub-County, ward or zones as may be appropriate.
- (j) The health plan shall, for the purposes of section 107 of the County Governments Act, 2012 be the health sector plan and may be reviewed annually.
- (k) The health plan shall be adopted by the County Executive Committee.

Planning Unit

38. (1) Each County health facility established under section 5 shall be a planning unit.

- (2) Each planning unit shall-
 - (a) develop five year strategic plan which shall be approved by the respective Board or Committee and by the County Executive Committee;
 - (b) prepare annual estimates of income and expenditure; and
 - (c) implement County health policies and programs at the respective level.
- (3) A strategic plan prepared under subsection (1) shall be in accordance with the health plan prepared under section 36.

Specialized units

39.

- (1) The Executive Member shall in consultation with the County Executive Committee designate and facilitate establishment of specialized healthcare units in County health facilities.
- (2) The specialized units shall be established on the basis of disease, health condition or age and shall include among others-
 - (a) Trauma Centre
 - (b) maternal health and child health;
 - (c) substance abuse rehabilitation centers;
 - (d) mental health unit;
 - (e) Cancer centers; and
 - (f) any other specialized centers
- (3) The Executive Member shall ensure that the specialized units-
 - (a) established under this section are equitably distributed within the County;
 - (b) described under section (2) (a), (b) and (e) are established within one year upon the commencement of this Act; and
 - (c) are established and managed as model specialized units and centers of excellence in their respective areas of specialization.
- (4) For the purposes of this section, "center of excellence" means a facility that adopts and maintains quality service delivery, modern management practices, efficient and effective practices and a model for learning to other health related specialized units.

County Health Management Team

40.

- (1) There is established the County Health Management Team appointed by county executive committee in charge of health in consultation with the county health management board. In appointing the CHMT the county executive committee member shall consider key function areas of health services.
- (2) The Health Management Team shall consist of-

- (a) the Director of Health Services who shall be the Chairperson;
 - (b) the deputy director's department of health.
 - (c) the Health Administrative Officer of the Department who shall be the Secretary;
 - (d) Heads of key function areas in the Department at the County; and
- (3) The County Health Management Team shall be responsible for-
- (a) coordinating implementation of this Act and other health policies in the County;
 - (b) providing supervision and support to the management of the County Health Facilities and the Sub-County Health Management Teams;
 - (c) exercising disciplinary measures over health personnel working in the County as may be prescribed under subsection (6);
 - (d) reviewing and monitoring the implementation of this Act and advising the Department on appropriate measures to be adopted for effective implementation of this Act;
 - (e) facilitating County health facilities in the Sub-County to comply with the established standards in accordance with the Act; and
 - (f) carrying out any other function as may be assigned by the Executive Member.
- (4) The County Health Management Team shall convene at least one quarterly meeting with the Sub-County Health Management Team.
- (5) The County Health Management Team shall prepare and submit quarterly report of its operations to the Department, which shall inform the preparation of the reports
- (6) The Executive Member shall, in consultation with the County Health Management Board prescribe guidelines for governing operations of the County Health Management Team.

Sub County Health Management team

41. (1) There is established in each Sub-County, the Sub-County Health Management Team.
- (2) The Sub-County Health Management Team shall consist of-
- (a) The sub-County Medical Officer of Health who shall be the team leader appointed by the executive member;
 - (b) the Sub-County Health Administrative Officer who shall be the Secretary;
 - (c) the Heads of Units in the Department at the Sub-County;

- (d) Public health officer in charge of the sub-county;
- (e) the Medical Superintendents of the Sub-County hospitals; and
- (f) any other senior and long serving officer as the Executive Member may designate in consultation with the County Health Management Team.

- (3) The Sub-County Health Management Team shall be responsible for-
 - i. coordinating implementation of this Act and other health policies in the Sub-County;
 - ii. providing supervision and support to the management of the County health facilities in the Sub-County;
 - iii. reviewing and monitoring the implementation of this Act; advising the Department on appropriate measures to be adopted for effective implementation of this Act;
 - iv. exercising disciplinary measures over health personnel working in the Sub-County as may be prescribed under subsection (6);
 - v. carrying out needs and capacity assessment for County health facilities;
 - vi. in consultation with the County Health Management Team, facilitating capacity building of health personnel at the Sub-County;
 - vii. facilitating County health facilities in the Sub-County to comply with the established standards; and
 - viii. carrying out any other function as may be assigned by the Executive Member.
- (4) The Sub-County Health Management Team shall prepare and submit quarterly report of its operations to the County Health Management Team.
- (5) The Department shall provide secretariat services to the County and Sub-County Health Management Teams.
- (3) The Executive Member shall in consultation with the County Health Management Team and the Sub-County Health Management Team prescribe guidelines for governing operations of the Sub-County Health Management Team.
- (4) The Sub-County Health Management Team shall meet at least once every month.

Quality management system

42. (1) A health facility shall have a Quality Management System, which shall be certified under the recognized International Quality Standards and any other certification applicable to health services.
- (2) The Executive Member shall ensure that within five years after the commencement of this Act, all health facilities and the Department are certified under this section.

PART VI—COUNTY HEALTH INSPECTORATE

Establishment of the Inspectorate

43. (1) There shall be established a Taita Taveta County Health Inspectorate comprising of the following nine persons appointed by the Executive member –
 - (a) the Medical Officer who shall be the chairperson;
 - (b) Head of enforcement
 - (c) Officer in charge of Public Health;
 - (d) County nursing officer;
 - (e) Laboratory coordinator;
 - (f) Health record and information officer;
 - (g) County pharmacist;
 - (h) Representative of private health care providers; and
 - (i) Head of quality Department who shall be the secretary;
- (2) The County Health Inspectorate shall be a section in the office of the County Chief Officer for Health Services.

Functions of County Health Inspectorate

44. (1) The Inspectorate shall be responsible for;
 - (a) Inspection of facilities and institutions both public and private to ensure compliance with set guidelines/practices of public health under the Public Health Act Cap 242 Laws of Kenya;
 - (b) Enhancing compliance of standards and technical requirements for institutions and health professionals;
 - (c) Inspection of health facilities to ensure compliance with occupational health and safety Laws, Rules, policies and standards;
 - (d) Advising on formulation of guidelines on delivery of quality health care including environmental health and sanitation;

- (e) Supporting the developing of benchmarks for service delivery in collaboration with national, regional and international similar bodies;
- (f) Collaboration with regulatory bodies to enhance compliance of standards and enhance technical requirements;
- (g) Establishing a quality assurance mechanism within public and private health institutions; and
- (h) Monitoring and evaluation of health management system to safeguard quality of health care.
- (i) Preparing a report on compliance with the quality assurance standards and making recommendations to the relevant regulatory body in compliance thereof;

Limitation of Powers

45. (1) In the exercise of its powers under this Act, the Inspectorate shall be guided by the rules and regulations gazetted by the County under this act
- (2) Notwithstanding the actions set out in subsection (1) where faults or deficiencies in performance are identified or opportunities are detected for the improvement or correction of performance, the Inspectorate shall in a written report explain the relevant findings to the person or institution concerned, including making appropriate proposals to the person in question on the means by which such gaps of standards and quality as have been identified may be remedied or performance enhanced to the satisfaction of the Inspectorate and where necessary shall set specific requirements regarding measures to be undertaken.

PART VII- TRADITIONAL AND ALTERNATIVE MEDICINE

Promotion of practice

46. (1) The county government department of health shall formulate policies to guide the practice of traditional and alternative medicine.
- (2) The county executive department for health shall ensure implementation of any policies thereto.

Documentation and mapping

47. The county department for health shall institute measures for documentation and mapping of traditional and alternative medicine practice.

Standardization

48. The county government department for health shall, in consultation with key stakeholders develop policies for standardization of traditional and alternative medicine practice.

Referrals

49. The county government department of health may develop policy guidelines for referral mechanisms and a system of referrals from practitioners of traditional and alternative medicine to conventional health facilities and may prescribe regulations for incidental and connected purposes which shall be implemented within the county.

PART VIII - HUMAN ORGANS AND POST-MORTEM

Human Organs transplantation

50. (1) No person shall remove tissue from a human being for transplantation in another human being or carry out the transplantation of such tissue except -
- (a) in a duly authorized health facility for that purpose; and
 - (b) on the written authority of -
 - (i) the medical practitioner in charge of clinical services in that health facility or any other medical practitioner authorized by him or her; or
 - (ii) in the case where there is no medical practitioner in charge of the clinical services at that health facility, a medical practitioner authorized by the person in charge of the hospital.
- (2) The medical practitioner mentioned in subsection (1) (b) shall not be the lead participant in a transplant for which he or she has granted authorization under that subsection.
- (3) The County Executive Member shall in consultation with the relevant specialist prescribe through regulations-
- (a) the criteria for the approval of organ transplant facilities; and
 - (b) the procedural measures to be applied for such approval.
- (4) Any person who contravenes the provision of this section or who charges a fee for a human organ commits an offence and is liable on conviction to a fine not exceeding five million

shillings or to imprisonment for a period not exceeding ten years or to both a fine and imprisonment.

Blood transfusion services

51. There shall be County Blood Transfusion service governed by rules and regulations gazetted by the County Assembly in Consultation with National blood transfusion services.

Blood transfusion unit

52. (1) There shall be established a county blood transfusion unit through gazettelement by county assembly in consultation with the national blood transfusion.
- (2) The county blood transfusion unit shall operate; deliver the transfusion services required in consultation with the national blood transfusion services.
- (3) The functions of the county transfusion unit shall be ;
- (a) Coordinate blood transfusion services in the county
 - (b) Ensure availability of safe blood and blood products for transfusion
 - (c) Ensure safe transportation, storage and processing of blood and blood products
 - (d) All donors of blood or blood products shall have a right to access their results to enhance good lifestyles and management

Post mortem

53. (1) A post mortem examination of the body of a deceased person may be conducted if -
- (a) The person when alive voluntarily gave consent thereto;
 - (b) The spouse, partner, next of kin, parent, guardian brother or sister to the deceased, gave consent thereto; or
 - (c) Such an examination is necessary for determining the cause of death.
- (2) A post mortem examination may not take place unless-
- (a) the medical practitioner in charge of clinical services in the hospital or authorized institution or of the mortuary in question, or any other medical practitioner authorized by such practitioner; or
 - (b) in the case where there is no medical practitioner in charge of clinical services, a medical practitioner authorized by the person in charge of such hospital or authorized institution,

authorizes the post mortem examination in writing and in the prescribed manner.

Offences

- 54.** (1) It shall be an offence for any person who shall remove blood, a blood product or tissue from the body of a living person without consent of the person or guardian.
- (2) No person shall engage in unauthorized selling of blood, blood products and tissues from a living person.
- (3) The county blood transfusion shall have the duty to maintain the results of the donor confidential unless authorized.
- (4) Any person who contravenes or fails to comply with this section is liable to imprisonment for period not exceeding six months or a fine not exceeding Kshs. 100,000 or both.

PART IX- STAFFING AND REPORTS

Staffing

- 55.** The County Public Service Board shall, in consultation with the Chief Officer, establish offices and appoint such staff under the department, including to county health facilities in accordance with the County Government Act.

Reports

- 56.** (1) The Department shall prepare quarterly reports on the implementation of this Act which shall be transmitted to the county executive committee for consideration.
- (2) The Chief Officer shall, not later than three months after the end of each financial year, prepare a health status report which shall consist of-
- (a) the status of implementation of the Act during the year;
 - (b) the extent of consultation, cooperation and collaboration with national government and other county governments as stipulated under sections 75 and 76 of this Act;
 - (c) the progress towards the implementation of the health plan prepared under Section 36;
 - (d) the measures taken to control and mitigate the impact of the health risk factors;
 - (e) the level of disease burden disaggregated in terms of age, gender, social status, and ward, communicable and non-communicable diseases and injuries prevention among others;
 - (f) challenges faced in the implementation of the Act and proposed mitigation measures;

- (g) measures taken and progress made towards health promotion and implementing the respective policies;
- (h) Emerging patterns or trends in lifestyle within the county or at national level which may negatively impact on health in the county;
- (i) the level and status of compliance with established quality standards;
- (j) progress and status of supervision and oversight over private health facilities ;
- (k) Generally any matter related to the implementation of this Act; and
- (l) Any other matter as the Executive Member may require.

(3) The Executive Member shall within fourteen days of receiving the annual report submit to the County Executive Committee and thereafter within twenty-one days' submit to the Clerk of the County Assembly for tabling before the County Assembly for consideration.

(4) The Department shall-

- (a) publish the report prepared under sub-section 14(i);
- (b) publicize the report to county residents; and
- (c) Facilitate the collation of views and feedback from county residents in relation to the report.

PART X - HEALTH FINANCING

Establishment of the County Facilities Improvement fund

57. (1) The county executive Committee Member for Finance shall within thirty (30) days after *Gazettement* of this Act establish the Taita-Taveta County Facilities Improvement Fund.
- (2) The following Monies shall be paid into the fund-
- (a) Monies appropriated by the County Assembly for operations of health facilities except money provided in the budget for purchase of medical commodities as well as conditional allocation by national government;
 - (b) Monies received as contributions, gifts or grants from any lawful sources;
 - (c) Monies earned or received as user charges;
 - (d) Income generated from proceeds of the Fund;

- (e) Income generated from environmental health facility improvement fund;
 - (f) Income generated from the free maternity services allocated to the County; and
 - (g) Funds received as reimbursement as national hospital insurance fund (NHIF).
- (3) all monies due to the fund shall be received and paid to the Fund in full and shall be collected and accounted through the established accounting system.
- (4) The Chief Officer Finance shall ensure that all funds committed to health are transferred from County Revenue Fund to the health facilities within twenty one (21) days in accordance to the Inter-Governmental Participation Agreement of Universal Health Coverage in Kenya of 2020.
- (5) This act shall exempt all monies raised or received directly by county health facilities and sub-county public health units from being paid into County Revenue Fund.
- (6) The revenue exempted from payment into the County Revenue Fund shall be received and accounted as Appropriation in Aid (AIA)
- (7) The Chief Officers for Health and Finance shall ensure that all county health facilities and sub-county public health units have operational bank accounts.
- (8) The County government shall ensure that funds for health including Facility Improvement Funds are ring fenced at the County level.
- (9) The budgets estimates for the fund shall –
- (a) be submitted together with the estimates of the Department of Health Services after approval by the County Health Board to county treasury for consolidation
 - (b) The budget estimates shall comprise separate expenditure plan for all health institutions which raise or receive revenue from their services.
 - (c) Budget estimates of the fund shall indicate expenditure net of Appropriation -in-Aid (AIA) and shall be approved by the County Assembly.

- (10) The County Health Board shall-
- (a) authorize payments out of the fund on the basis of quarterly budgets approved by hospital Boards, Health Facility Committees and Sub County Health Management Team for the Sub County Public Health Unit.
 - (b) ensure the amount payable to each Hospital, Sub-county Public Health Unit and or facility shall be at least the amount of collection from that facility; and
 - (c) Notwithstanding the provisions of paragraphs (b) above, ensure equitable sharing of monies appropriated by the County Assembly for operational needs of the hospital, health facilities and Sub-county Public Health Unit.

Capital of the Fund

- 58.** (1) The initial capital of the fund shall be such amount of money as may be appropriated by county assembly in the financial year.
- (2) (a) the executive committee member for finance shall designate an administrator of the fund in accordance with section 116 of the Public Finance Act, 2012.
- (b) the administrator of the Fund shall;
- (i) Open and operate bank accounts with the bank to be approved by the County Treasury
 - (ii) Supervise and control the administration of the Fund
 - (iii) Consult with the county executive committee member and the board on matters relating to the administration of Fund
 - (iv) Cause to be kept proper books of the accounts and other books and records in relation to the fund, of all activities and undertakings financed from the Fund;

- (v) 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 and submit a copy to the National Treasury and the statements shall be prepared in such a manner as the public sector accounting standards Board shall prescribe;
- (vi) Furnish additional information which is proper and sufficient for the purpose of examination and audit by the Auditor –General in accordance with the provision of the Public Audit Act, 2003;
- (vii) Prepare quarterly report on the receipts into and issues out of the Fund and submit it to the Board for the *gazzettement* by the 21st day of the first month of the subsequent quarter;
- (viii) Prepare, sign and transit to the County Treasury in respect of each financial year and within three months after the end thereof, a statement of account relating to the Fund and the expenditure incurred from the Fund, and such details as the treasury may from time to time direct, in accordance with the provisions of the Public Finance Management Act 2012;
- (ix) Furnish such additional information as may be required that is proper and sufficient for the purpose of examination and audit by the County Head of Audit and Auditor General in accordance with the provisions of the Public Audit Act;
- (x) Develop the criteria for the allocation of funds for approval by the Board;
- (xi) Prepare in consultation with the health facility board or committees a schedule of annual distribution of resources to the health facilities.
- (xii) Prepare in consultation with the Board, impose conditions on the use of expenditure authorized by him or on

his behalf and may impose any reasonable prohibition, restriction or other requirement concerning such use of expenditure;

- (xiii) Institute prudent measures for the proper utilization for monies deposited in the Funds using suitable internal controls and appropriate mechanism for accountability including audit of accounts by internal auditors;
- (xiv) Cause to be kept proper books of accounts and records relating to all receipts, payments, assets and liabilities of the fund and to any other activities and undertakings financed by the Fund;
- (xv) 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 financial year concerned.

- (3) Application of government regulations and Government procedures subject to the provisions of the public finance management Act 2012, existing government regulations and procedures shall apply in the administration of the Fund.

Facility Improvement Fund

- 59. Subject to section 109 2(b) of the Public Finance Management Act No.18 of 2012 Health Facility Improvement Fund shall include;

- (a) Monies received as user charges from hospitals
- (b) Monies received from NHIF claims.
- (c) NHIF capitation.
- (d) User fees from sub county public health units

Role of the Executive Member

- 60. (1) The Executive member for Finance shall facilitate, and oversee the operations of the Board in the implementation of the Fund and in particular shall-
 - (a) Develop policy measures relating to the Fund
 - (b) Give guidelines on the Fund allocation formula for distribution to hospitals, health facilities and sub-county public health units.
 - (c) Make regulations to give effect to the objects of the Fund; and

- (d) Performance of any other functions assigned to him or her under this act or any other written law.

Disbursement of Funds

- 61. (1) The funds shall be disbursed under the following conditions-
 - (a) All disbursement from the Fund shall be approved and minute by the County Health Management Board;
 - (b) The collecting institution of the Facility Improvement Fund shall be allocated seventy five percent (75%) of their total collection at the end of the quarter and the remainder 25% shall be allocated to the County Health Management Team to support Primary Health Care in the County.
 - (c) The 25% allocated in Section 13(b) shall be disbursed to Sub-county Health management teams as follows:-
 - (i) Forty percent (40%) shall be allocated to the County Health Management Team
 - (ii) Sixty percent (60%) shall be shared equally to each Sub-county health management team.
 - (d) The record of the amounts received by each hospital, health facility and sub-county public health units and the record of expenditure of the amounts so received shall be submitted to the County Health Management Board within Thirty Days after the close of the relevant financial year, together with a copy of the relevant bank statements and no disbursement for the succeeding financial year shall be made into the accounts until the said documents are duly received;
 - (e) The County Health Management Board may impose reasonable requirements, including restrictions, on a particular hospital or facility and such restrictions or requirements shall be reported together with the monthly returns to be submitted to the Executive Committee Member.

Winding up of Fund

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

. Waivers

63. (1) There shall be established an elaborate waiver system that cushions the individuals from financial hardships and ensure that no user is denied essential healthcare due to inability to pay.
- (2) A user shall apply for the waiver through the prescribed form in the manner prescribed by the third schedule.
- (3) There shall be a waiver committee in every hospital appointed by the medical superintendent which shall comprise of-
- (i) Health Administrative officer who shall be the chairman;
 - (ii) Medical social worker, who shall be the secretary;
 - (iii) Three other officers who shall be nurses in-charge of major wards.
- (4) The role of the waiver committee shall be, to assess the waiver application and grant waiver for deserving cases.
- (5) The waiver committee shall meet once a week.

(2) Service charge waivers

- (a) There shall be established a hospital waiver committee in each hospital whose members shall be:-
- (i) Hospital administrator as the chair person
 - (ii) Medical social worker as the secretary
 - (iii) The nurse manager
 - (iv) A representative from the department referring the waiver
- (a) The waiver committee shall have at least one meeting weekly.
- (b) The social worker shall present a detailed social economic status assessment report of the client to be waived to the committee.
- (c) For the purposes of screening an out-patient case, waiver can be granted by the user department and the nurse covering and the medical officer.
- (d) The hospital waiver committee shall submit detailed monthly report to the Director and Chief Officer.
- (e) There shall be a County Waiver Committee Register, which everybody can access for accountability purposes, submitted along with the quarterly reports.

Exemption

- 64.** (1) There shall be an elaborate exemption system that will ensure promotion of health for special groups and treatment of certain disease conditions upon verification;
- (2) The special groups shall include;
- (a) Children under 5 years of age
 - (b) Orphans and vulnerable children
 - (c) Prisoners
 - (d) Gender Based Violence survivors
 - (e) Pregnant women
 - (f) People with disability and mentally impaired
 - (g) Elderly persons of 65 years and above
- (3) The disease conditions shall include;
- (a) Retro viral drugs for HIV/AIDS;
 - (b) Tuberculosis funded programs;
 - (c) Leprosy funded programs; and
 - (d) Malaria.
- (4) Reasons for each exemption or waiver shall be recorded in waiver committee minutes for both inpatients and outpatients.

Bank Account

- 65.** (1) The County Treasury shall facilitate the opening and maintenance of a bank account for purposes of operationalizing conditional grants, donations and any other monies for every health unit and facility in the county in line with public financial management Laws.
- (2) The department of health may open an account for purposes of use as appropriation in aid and shall account for such monies in the county annual budget.

PART XI-PROCUREMENT

County Procurement unit

- 66.** (1) There shall be a County Health Procurement Unit and Warehouse. Which shall be headed by officer appointed by Executive member,
- (2) The obligation of the County Health Procurement Unit is to procure, store and supply medicines, vaccines, medical devices, appliances, equipment and materials in accordance with the specifications from the user section or procuring entity.
- (3) (a)KEMSA shall be the first source for procurement for all medical products for the county.

(b)The county shall procure from other accredited suppliers where KEMSA does not meet the county's needs.

- (4) The classes of products to be procured by the County health Procurement Committee from any accredited supplier shall extend to therapeutic feeds, nutritional formulations in addition to pharmaceutical and non-pharmaceutical goods. TB and ARVs medicines, Laboratory reagents, equipment and any other essential supplies shall be in the list of products.
- (5) The right to procure under section (3) (a) and (b) above shall be comparative and in accordance with the procurement legislation.
- (6) County health facility may purchase medical supplies where there is emergency and unavailability of the product at the county health procurement warehouse
- (7) The County Health procurement unit shall ensure all accredited suppliers conform to the requirements of safety, quality of medicines and medical supplies guidelines.
- (8) The County procurement unit described under subsection (1) shall not procure any medical supply that does not conform to the standards prescribed under any written law.
- (9) A manufacturer or supplier who supplies any medical supply which does not meet the prescribed standards, shall be barred from supplying any medical supply to the County government.

Devices

67. The procurement of medical devices, equipment, appliances and materials shall similarly be undertaken by any accredited supplier subject to signing of a contract.

PART XII - THE PRIVATE SECTOR PARTICIPATION

Private Health Services

68. (1) The County Executive Committee Member shall pursue strategies conducive to the development of private health services and their attunement to the needs of the population.
- (2) The public and private health services and facilities shall complement each other in the provision of comprehensive and accessible health care to the people.

Licensing

- 69. Private entities shall be permitted to operate hospitals, clinics, laboratories, pharmacies and other institutions in the health sector, subject to licensing by the appropriate regulatory bodies.

Private Health Workers

- 70. Private health workers appropriately qualified to practice any health profession shall similarly be entitled to practice their profession in the county, subject to licensing by the appropriate regulatory bodies.

Duties of Licensees

- 71. (1) Institutions and private health workers licensed shall irrespective of any specific conditions attached to such a license be bound-
 - (a) to permit and facilitate inspection at any time by the county and regulatory bodies;
 - (b) to provide emergency services in their field of expertise required or requested either by individuals, population groups or institutions, without regard to the prospect or otherwise of direct financial reimbursement.

(2) Any person in charge of a health care institution or private health worker that neglects or fails to comply with the provisions of this Act commits an offence and on conviction shall be liable to imprisonment for a term of six months or to a fine not exceeding five hundred thousand shillings or to both.

PART XIII – REFERAL SYSTEM AND HEALTH INFORMATION SYSTEMS

E-health

- 72. (1) E- Health shall be a recognized mode of health service.
- (2) The Executive Committee Member for the time being responsible for Health shall adopt such appropriate electronic system for the purposes of implementing this Act.

Health information system

- 73. (1) The county department of health shall regulate the establishment and maintenance of a comprehensive health information system.

(2) The County Executive Member may, for the purpose of creating, maintaining or adapting databases within the county health information system desired in subsection (1), prescribe categories or kinds of data for submission, collection and the manner and format in which and by

whom the data is to be compiled or collated and submitted to the department of health.

- (3) All health care providers shall establish and maintain a health information system as part of the health information system specified under subsection (1);
- (4) All health care providers shall generate reports from the health information system on the medical reports for patients.

Referral system

74. (1) The county department shall establish a Referral system that shall—
 - (a) set the standards for ambulance service;
 - (b) develop guidelines on the specifications of ambulances in the county; and
 - (c) Purchase or lease ambulances or enter into contracts to lease ambulance services.
- (2) The county department shall ensure availability and accessibility of high quality, cost effective referral systems including ambulance services.

PART XIV– COLLABORATION

Collaboration

75. While the County Executive Member responsible for health shall bear primarily responsibility for the implementation of the provisions of this Act, it is recognized that in certain matters there is a need for collaboration, consultation and agreement between different arms of Government in the interpretation of the law, the introduction of regulations and the further development and adaptation of legislation.

Fields of Collaboration

76. The fields in which the need for collaboration, consultation and cooperation shall include, though not exclusively, those that deal with matters relating to—
 - (a) workers' health;
 - (b) health aspects of environmental protection;
 - (c) issues of animal health;
 - (d) professional education and training;
 - (e) public education;
 - (f) financing of health services; and
 - (g) bio-medical sciences and research.
 - (h) includes food security and social protection.

PART XV - TRANSITIONAL AND MISCELLANEOUS PROVISIONS

Existing Laws and Transitional Clause

77. (1) Except to the extent that this Act express provides to the contrary, all rights and obligations, however arising, of the county government and subsisting immediately before the effective date shall continue as rights and obligations of the county government as assigned under this Act.
- (2) Any law in force immediately before the effective date continues in force and shall be construed with the alterations, adaptations, qualifications and exceptions necessary to bring it into conformity with this Act.
- (3) If, with respect to any particular matter—
- (a) a law that was in effect immediately before the effective date assigns responsibility for that matter to a particular county organ or public officer; and
 - (b) a provision of this Act that is in effect assigns responsibility for that matter to a different county organ or public officer, the provisions of this Act shall prevail to the extent of the conflict.
- (4) Any money held by a public health facility from its earnings prior to enactment of this Act shall be deemed to be money administered in accordance with the Act.

Regulations

78. 1)The County executive committee member for Health shall make rules, regulations and guidelines generally for the better carrying out of the provisions of this Act and without limiting the generality of the foregoing, the County Executive Member may make regulations for-
- (a) the norms and standards for health service delivery;
 - (b) specified types of protective clothing and the use, cleaning and disposal of such clothing;
 - (c) returns, registers, reports, records, documents and forms to be completed and kept by county health institutions, public health facilities and private health facilities;
 - (d) communicable and non-communicable diseases;
 - (e) notifiable medical conditions;
 - (f) rehabilitation;
 - (g) emergency medical services and emergency medical treatment;
 - (h) health nuisances and medical waste;
 - (i) health research;

- (j) health products and technology;
- (k) the county health information system;
- (l) the documentation of traditional medicines and a database of herbalists;
- (m) Anything which may be prescribed under this Act.

General Penalties

79. (1) A person convicted of an offence under this Act for which no penalty is provided shall, on conviction, be liable to a fine not exceeding Five Hundred Thousand shillings or to imprisonment for a term of three months, or both,
- (2) An act or omission which is an offence under this Act or any regulations made hereunder shall, if done by a body corporate, be deemed to be an offence committed by every director, secretary or manager of the body corporate unless proved that the offence was committed without consent or connivance of the director, secretary or manager and that he or she exercised all such diligence to prevent the commission of the offence as he ought to have exercised having regard to the nature of his functions and circumstances of the case.
- (3) If an offence under this Act or any regulations made hereunder is committed by a partner in a firm, every person who, at the time of the commission of the offence, was a partner in that firm, or was purporting to act in that office shall be deemed to have committed the offence, unless there is proof that the offence was committed without the consent or connivance of the partner and that he exercised all such diligence to prevent the commission of the offence as he ought to have exercised having regard to the nature of his functions and the circumstances of the case.

FIRST SCHEDULE
HEALTH LAWS AND POLICIES

The County Executive Member for Health shall, within twelve months upon the commencement of this Act, prepare and submit to the county assembly for enactment or adoption the regulations and policies stipulated under the first schedule.

(1) For the better carrying out of the objects of this Act.

(2) Without prejudice to the generality of subsection (1), the Regulations and guidelines may;

- (a) prescribe for the health facilities under the provided categories
- (b) prescribe the number of dispensaries and community units in a ward;
- (c) prescribe the manner of electing members to the health centers and dispensaries' committees;
- (d) Describe the operational policies and guidelines for management and administration of a county health facility.
- (e) Outline or prescribe the health outcomes.
- (f) prescribe the operational guidelines for management and administration of health facilities
- (g) prescribe the standards and procedures for conducting inspections and health systems audit;
- (h) prescribed data and information to be collated from private health service providers; and (i) prescribe the procedure of conduct of the business of the county health sector forum and its executive committee.

SECOND SCHEDULE

**PROVISIONS RELATING TO THE LAWS AND POLICIES TO BE ENACTED OR
ADOPTED**

Environmental health

Occupational safety:

Advancement of Public Health

Tobacco control:

Treatment and rehabilitation for alcohol and drug dependency.

Mental health:

Sanitation and water quality:

Food safety and control: Sale of unwholesome food prohibited

Seizure of unwholesome foods

Ambulance services:

Cemeteries

Regulation of lodging-houses

Regulation of nursing homes, etc.

Markets and public latrines

THIRD SCHEDULE
WAIVER APPLICATION FORM

Part A: (To be filled by applicant)

Waiver Number.....
Name.....
Age.....
Gender.....
Marital status.....
Occupation.....
Mobile Phone number.....
Village.....
Sub-location.....
Location.....
Ward.....
Sub
County.....
Ward administrator.....

Part B (To be filled by officer granting waiver e.g. clinician, ward nurse etc)

IP/OPD No.....
Date of admission or
treatment.....
Ward
Admitted.....
Bed No.....
Reason/reasons for recommending waiver
.....
.....
.....
.....
.....
.....

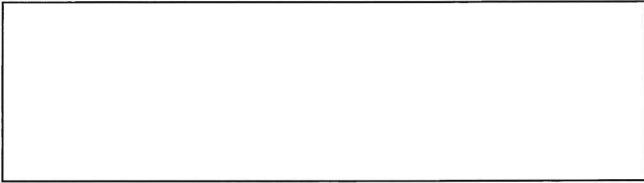
Secretary's name and
signature.....

Part E (Approval/ Disapproval by Medical Superintendent)

This waiver is approved () / Disapproved () as recommended by waiver committee.

Name and
signature.....
.....

Official Rubber stamp



FOURTH SCHEDULE

PROVISIONS ON THE CONDUCT OF BUSINESS AND AFFAIRS

A. THE COUNTY HEALTH MANAGEMENT BOARD

1. Responsibility of the Chair Person

- (a) Setting meeting schedules in consultation with other board members and overseeing preparation of meeting materials.
- (b) Presiding over Health Management Board meetings.
- (c) Overseeing all committees of the Board.
- (d) Overseeing the implementation of Government policy and other resource manuals.
- (e) Ensuring effective recruitment, orientation and development of Health Management Board members.
- (f) Providing for regular Health Management Board and individual member self-evaluation.
- (g) Planning for Health Management Board succession in consultation with the County Executive Committee Members responsible for matters relating to health.

2. Vice Chairperson

Assumes chairperson's role if he/she is unavailable or unable to serve.

3. Responsibilities of the Secretary.

- (a) Keeps accurate records of Health Management Board meetings, attendance, decisions, long range plans and policies.
- (b) Communicates key policy decisions to the hospital teams.

4. Vacation of office

A member other than an ex officio member 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 County executive member;
- (b) Be removed from office by the Governor or the County Executive member, as the case may be, if—
 - (i) the member has been absent from three consecutive meetings of the Board without the permission of the Board;
 - (ii) is adjudged bankrupt or enters into a composition scheme or arrangement with his or her creditors;
 - (iii) is convicted of an offence involving dishonesty or fraud;
 - (iv) is convicted of a criminal offence and sentenced to imprisonment for a term exceeding six months or to a fine exceeding ten thousand shillings; is incapacitated by prolonged physical and 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 disclosures;
- (vii) If the member ceases to be resident of the county or Sub County or work in the area of hospital jurisdiction; or
- (viii) is otherwise unable or unfit to discharge his or her functions as a member of the Council.

5. Meetings

- (a) The Board shall hold at least four but not more than 8 meetings in every financial year and not more than four months will lapse between one meeting and the next.
- (b) Notwithstanding subparagraph (a), the chairperson of the Board may convene a special meeting of the Board at any time for the transaction of the business of the Board, upon requisition in writing by at least five members of the Board.
- (c) Meetings shall be convened by the Chairperson or in his or her absence by the vice-chairperson.
- (d) Unless agreed upon by at least three quarters of the members, at least fourteen days' notice of a meeting shall be given to every member.
- (e) The Chairperson shall preside over all the meetings of the Board or in his or her absence, the meetings shall be presided over by the vice-chairperson or in both of their absences, by a person elected by the Board at the meeting for that purpose.
- (f) A decision of the Board shall be by a majority of the members present and voting and, in the case of an equality of votes; the person presiding at the meeting shall have a second
- (g) Or casting vote. The first order of business of the Board shall be to elect a Vice Chairperson.

6. Quorum

The quorum for the conduct of business of the Board shall be half of the members, unless a unanimous decision is reached,

7. Minutes

Minutes of all meetings shall be kept and entered in books kept for that purpose.

8. Conflict of Interest

- (1) If a member is directly or indirectly interested in Disclosure of 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 Act shall be recorded in the minutes of the meeting at which it is made.

9. **Remuneration**

The Chairperson and members of the Board shall be paid such allowances as shall be prescribed by the Executive member in consultation with the Salaries and remuneration Commission.

10. **Health Management Board Sub Committees**

- (1) The Hospital Management Board shall have the following sub committees-
- (a) Executive Committee
 - (i) The Executive Committee shall consist of the Chairperson, Vice Chairperson, Secretary, and Chairpersons of the two sub committees [Finance and General Purpose subcommittee, and Quality of Health Care Services subcommittee].
 - (ii) It shall be the duty of the Health Management Board Subcommittee to review and make recommendations for consideration by the Health Management Board, and to serve as advisory committees to the Health Management Board and hospital management.
 - (b) Finance and General Purpose Sub Committees.
 - (i) Sub Committee members shall consist of no more than five (5) persons of whom at least two (2) shall be members of the Health Management Board.
 - (ii) The members shall elect a chair to the subcommittee who shall be a member of the Health Committee Board.
 - (iii) It shall be the duty of the finance committee to review the annual operating and capital budgets, to review the fiscal management of the hospital and its assets and liabilities and to make recommendations relating thereto to the Health Management Board and to perform such other duties as may be assigned by the Board.
 - (c) Quality of Health Care Services Sub Committee
 - (i) Committee members shall consist of no more than five (5) persons, at least two (2) who shall be members of the Health Management Board. The other members shall be drawn from the various hospital departments.
 - (ii) It shall be the duty of the quality of healthcare services sub committees to establish and maintain an effective hospital wide quality improvement program, which is broad in scope and measures, assesses and improves the performance of the hospital and its quality and appropriateness of services.

- (iii) The committee shall review the hospital quality assessment reports and make recommendations for improvement where problems are identified to Board; and
 - (iv) The Committee may have no more than three members from the hospital departments as and when necessary.
- (d) Special and Ad Hoc Committees
- (i) The chairperson of the Health Management Board may appoint special/ad hoc committees to deal with urgent matters or to assist the Board in the management of some of its responsibilities. The chairperson of such committees shall be members of the Board and the assignment specified in each instance. Members of special /ad hoc committees need not all be members of the Board. The tenure of each special /ad hoc committees shall be specified upon its appointment.
 - (ii) Special /Ad Hoc committees may be appointed to deal with any matters relating to the hospital operations.

B. THE HOSPITAL MANAGEMENT BOARD

1. Vacation of office

A member other than an ex officio member 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 County executive member;
- (b) be removed from office by the Governor or the County Executive member, as the case may be, if —
 - (i) the member has been absent from three consecutive meetings of the Board without the permission of the Board;
 - (ii) is adjudged bankrupt or enters into a composition scheme or arrangement with his or her creditors;
 - (iii) is convicted of an offence involving dishonesty or fraud;
 - (iv) is convicted of a criminal offence and sentenced to imprisonment for a term exceeding six months or to a fine exceeding ten thousand shillings; is incapacitated by prolonged physical and 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 disclosures;
 - (vii) If the member ceases to be resident of the county or Sub County or work in the area of hospital jurisdiction or
 - (viii) is otherwise unable or unfit to discharge his or her functions as a member of the Board.

2. Meetings

- (a) The Hospital Management Board hold at least four meetings in every financial year and not more than four months will lapse between one meeting and the next and submit their minutes to the Director and Chief Officer within duration of seven (7) days after the said meeting.
- (b) Notwithstanding subparagraph (2), the chairperson of the Board may convene a special meeting of the Board at any time for the transaction of the business of the Board, upon requisition in writing by at least five members of the Board.
- (c) Meetings shall be convened by the Chairperson or in his or her absence by the vice-chairperson.
- (d) Unless agreed upon by at least three quarters of the members, at least fourteen days notice of a meeting shall be given to every member.
- (e) The Chairperson shall preside over all the meetings of the Board or in his or her absence, the meetings shall be presided over by the vice-chairperson or in both of their absences, by a person elected by the Board at the meeting for that purpose.

(f) A decision of the Board shall be by a majority of the members present and voting and, in the case of an equality of votes; the person presiding at the meeting shall have a second or casting vote. The first order of business of the Board shall be to elect a Vice Chairperson.

3. **Quorum**

The quorum for the conduct of business of the Board shall be half of the members, unless a unanimous decision is reached,

4. **Minutes**

Minutes of all meetings shall be kept and entered in books kept for that purpose.

5. **Conflict of Interest**

(1) If a member is directly or indirectly interested in Disclosure of 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 Act shall be recorded in the minutes of the meeting at which it is made.

6. **Remuneration**

Remuneration and allowances of members of the board shall be as prescribed by the salaries and remuneration commission as issued from time to time.

C. THE HEALTH CENTER AND DISPENSARY COMMITTEE

1. Vacation of office

A member may—

- (a) at any time resign from office by notice in writing, to the Chairperson of the Hospital Management Board;
- (b) be removed from office, if –
 - (i) the member has been absent from three consecutive meetings of the Board without the permission of the Board;
 - (ii) is adjudged bankrupt or enters into a composition scheme or arrangement with his or her creditors;
 - (iii) is convicted of an offence involving dishonesty or fraud;
 - (iv) is convicted of a criminal offence and sentenced to imprisonment for a term exceeding six months or to a fine exceeding ten thousand shillings; is incapacitated by prolonged physical and 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 disclosures;
 - (vii) If the member ceases to be resident of the county or Sub County or work in the area of hospital jurisdiction; or
 - (viii) is otherwise unable or unfit to discharge his or her functions as a member of the committee.

2. Meetings

- (a) The Health Facility Committee shall meet at least once every month and submit their minutes to the Hospital Management Board within duration of seven (7) days after the said meeting
- (b) Meetings shall be convened by the Chairperson or in his or her absence by the vice-chairperson.
- (c) Unless agreed upon by at least three quarters of the members, at least fourteen days' notice of a meeting shall be given to every member.
- (d) The Chairperson shall preside over all the meetings of the committee or in his or her absence, the meetings shall be presided over by the vice-chairperson or in both of their absences, by a person elected by the committee at the meeting for that purpose.
- (e) A decision of the committee shall be by a majority of the members present and voting and, in the case of an equality of votes; the person presiding at the meeting shall have a second or casting vote. The first order of business of the Committee shall be to elect a Chair person and a Vice Chairperson.

3. The quorum for the conduct of business of the committee shall be half of the members, unless a unanimous decision is reached,
4. Minutes of all meetings shall be kept and entered in books kept for that purpose.
5. (1) If a member is directly or indirectly interested in Disclosure of any matter before the committee and is present at the meeting of the committee 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 Act shall be recorded in the minutes of the meeting at which it is made.
6. Remuneration and allowances of members of the committee shall be as prescribed by the salaries and remuneration commission as issued from time to time.
7. Remuneration allowances for committee members for rural facilities shall be prescribed by the Salaries and Remuneration Commission as issued from time to time.

MEMORANDUM OF OBJECTS

The Taita Taveta County Services Bill, 2021 is a legislative proposal designed to create structures for the management of delivery of health services in the County for the benefit of the residents of Taita Taveta County.

The bill proposes the establishment of the following units;

1. County Health Management Board – to be charged with the overall planning for the delivery of health services including distribution of resources to health facilities and advisory role to the County Executive Committee Member for health services and sanitation.
2. County Health Management Committee – Charged with the role of advising the County health board on the operational activities of the health department in the delivery of health services.
3. Hospital Management Boards level – Charged with the responsibility of managing hospital and the sub –county and oversight of hospital management teams.
4. Health Centre and Dispensary Committees – Mainly to draw membership from local areas where the facilities are located charged with the planning and operational management of the facilities.
5. County Health Inspectorate – To be charged with the supervision of compliance with public health protocols within the provisions of the Public Health Act Cap 242 of the Laws of Kenya.

The Bill, if passed into law will occasion and extra charge on the County Revenue fund on account of administration of the several units formed towards the management of health services delivery”.

***HON. OMAR AHMED, CHAIRPERSON,
COMMITTEE ON HEALTH AND SANITATION SERVICES***

