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THE PRIMARY HEALTH CARE BILL, 2023

A Bill for

AN ACT of Parliament to provide a framework for the delivery of and access to and management of primary health care; and for connected purposes

ENACTED by the Parliament of Kenya as follows—

PART I – PRELIMINARY

1. This Act may be cited as the Primary Health Care Act, 2023.

Short Title.

2. In this Act—

Interpretation.

“Cabinet Secretary” means the Cabinet Secretary responsible for matters relating to health;

“care coordination” means a proactive approach that brings professionals and providers together to address the needs of service users to ensure they receive integrated and person-centered care across various settings;

“county executive committee member” means the county executive committee member responsible for matters relating to health;

“community” means a specific group of people, usually living in a defined geographical area, who share common values and norms, and are arranged in a social structure according to relationships which the community has collectively developed over a period of time;

“community health committee” means the functional structure overseeing the operations of a community health unit;

“community health officer” means a trained health professional who is assigned to supervise the community health promoters under their community health unit;

“community health care services” means the services specified under section 5;

“community health promoter” means a member of the community, who is selected by residents and appointed by the County and is trained to provide community health services to defined households;

“community health unit” means a group of households not exceeding one thousand within a defined geographical area and formally recognized as level one in the health system for community health service delivery;

“health care professional” has the same meaning assigned to it under section 2 of the Health Act; No. 21 of 2017.

“health care provider” has the meaning assigned to it under section 2 of the Health Act;

“health facility” has the same meaning assigned to it under section 2 of the Health Act;

“hospital” includes health facilities at levels four, five and six respectively;

“household” means a social unit which shares the same socio-economic needs associated with consumption and production;

“primary health care” means essential health care based on practical, scientifically sound and socially acceptable methods and technology that is made universally accessible to individuals and families in the community at every stage of their development, through their full participation and at an affordable cost to the community and country, in the spirit of self-reliance and self-determination;

“primary health care workforce” includes health care providers and community health promoters;

“Primary Health Care Network” means an administrative health region comprising of a hub and spokes established to deliver access to primary health care services for patients, as well as to coordinate with other hospitals in order to improve the overall operational efficiency of the network;

“hub” means a primary health care referral facility which should be a level four facility;

“spokes” means level three and two facilities and the community health units;

“multi-disciplinary team” means a team of health care professionals with diverse expertise and skills who jointly assess, plan and manage health care that matches patients’

needs and those of the catchment population to improve health outcomes

“Universal Health Coverage” means that all individuals and communities receive the health services they need including the full spectrum of essential, quality health services from health promotion to prevention, treatment, rehabilitation, and palliative care without suffering financial hardship; and

“vulnerable groups” means vulnerable groups as defined under Article 21 of the Constitution.

3. The objects of this Act is to—

Objects.

- (a) promote and fulfill the rights of all persons in Kenya towards the progressive realization of their right to the highest attainable standards of health care;
- (b) promote the implementation of primary health care through a systemic approach and clear delineation of roles of all stakeholders towards realization of universal health coverage;
- (c) provide for the establishment of primary health care networks, community health units and other stakeholder centered engagement forums for sustainable provision of primary health care services;
- (d) provide for the role of the multi-disciplinary team in the provision of primary health care services; and
- (e) provide for the role of community health officers, community health assistants and community health promoters in the provision of community based primary health care services.

PART II –PRIMARY HEALTH CARE SERVICES

4. (1) Primary health care services shall be accessed at the community or at a health facility in accordance with this Act and any other written law.

Primary health care services.

(2) The services referred to in subsection (1) shall include health promotion, prevention, curative, rehabilitation and palliative services

5. (1) Community health care services commence at the household.

Community health care services.

(2) The Community health care services referred to in subsection (1) include—

- (a) health education and promotion;
- (b) disease prevention and control to reduce morbidity, disability and mortality;
- (c) family health services in the community;
- (d) environmental health and hygiene in the community;
- (e) provision of first aid and treatment of minor illnesses and injuries;
- (f) community-based surveillance;
- (g) psychosocial support, rehabilitation, and palliative care in the community;
- (h) referrals; and
- (i) management of health data in the community.

6. (1) Facility health care services commence at the health facilities.

Facility health care services.

(2) The facility health care services referred to in subsection (1) include—

- (a) promotive;
- (b) preventive;
- (c) curative;
- (d) rehabilitative; and
- (e) palliative.

7. Each county government shall facilitate the service delivery of primary health care by—

Delivery of primary health services.

- (a) adopting supportive and innovative modern approaches for disease identification, monitoring, surveillance, early warning, research, community education and information sharing;
- (b) providing community and stakeholder support to the respective primary health care facilities to facilitate optimal service provision;

- (c) enhancing the availability of quality services, accessibility and predictability of standardized primary health care services through effective leadership and governance, resourcing, private public partnerships, sharing of essential health products and technologies and integrated health information systems;
- (d) ensuring that there is continuous community engagement, training and registration of households within community health units in each primary health care network; and
- (e) guaranteeing that primary health care services are optimally financed and resourced to offer quality care to all patients and residents in the republic of Kenya.

PART III – PRIMARY HEALTH CARE WORKFORCE

8. (1) Primary health care workforce includes —

Primary health care workforce.

- (a) community health promoters appointed in accordance with this Act; and
- (b) health care providers.

(2) Each county government shall take all necessary measures to build the capacity of community health promoters for the proper and efficient implementation of this Act.

9. (1) A community health promoter shall be selected by the community through a public participation forum and appointed by the county government.

Recruitment of community health promoters.

(2) A person qualifies for selection and appointment as a community health promoter under subsection (1) if the person —

- (a) is a citizen of Kenya;
- (b) is above the age of 18 and is of sound mind;
- (c) is a responsible and respected member of the community;
- (d) understands the role of a community health promoter;

- (e) is a resident of the respective community for a continuous period of not less than five years prior to the appointment date;
- (f) is literate and can read and write in at least one of the national languages or the local language; and
- (g) is not disqualified for appointment to office by the above criteria of by any other law.

(3) A community health promoter shall be appointed on such terms and conditions as the respective county public service board shall determine.

(4) Each county executive committee member shall prescribe, in the county legislation, guidelines for the conduct of the public participation forum under subsection (1).

10. (1) A community health officer shall assign to each community health promoter households in such localities in such a manner as shall be prescribed by the county for the purpose of facilitating access to and ensuring the effective delivery of community health services at the community.

Functions of
community health
promoters.

(2) In the performance of the functions under subsection (1), a community health promoter shall—

- (a) sensitize the community on the importance of healthy lifestyles and of quality health services;
- (b) provide community disease surveillance by reporting early signs of imminent health disasters or emergencies;
- (c) enroll and monitor the health status of members of the households assigned to the community health promoter;
- (d) keep and maintain a record of members in all households assigned to the community health promoter;
- (e) monitor the rehabilitation and integration of persons who require such services in the community;
- (f) provide appropriate health advice to an assigned household in a language that the members of the household understand, including advice on—

- (i) appropriate sanitation and hygiene techniques including household water treatment;
 - (ii) good nutrition;
 - (iii) maternal and postnatal care including advice on breastfeeding, immunization, child health care and family planning; No. 24 of 2019.
 - (iv) the prevention, transmission and management of communicable diseases; and
 - (v) the prevention and management of non-communicable diseases;
 - (g) render first aid services to an assigned household and where necessary, make referrals to the link facility;
 - (h) monitor the growth of children under the age of five years in an assigned household;
 - (i) provide support to the assigned household on quality family-based care and support for a patient;
 - (j) submit reports, at such intervals as shall be determined by the county director of health, on the health of each member of an assigned household and the barriers to health and health care in the household to the community health officer;
 - (k) collect information on the health status of the assigned households;
 - (l) report incidence of side effects of drugs; and
 - (m) perform such function as may be assigned by the county executive committee member in county legislation or under any other law.
- (3) A community health promoter shall, in the conduct of the functions specified under subsection (1) and (2)—
- (a) be ethical;
 - (b) inform the household of the use to which the information shall be put;
 - (c) ensure confidentiality;
 - (d) ensure accuracy of the information captured;

- (e) transmit the information within the timelines specified by the county director of health; and
- (f) ensure access to personal data by persons to which that data relates in accordance with the Data Protection Act, 2019.

11. (1) Each county director of health shall keep and maintain a register of all community health promoters working in the county.

Register of
community health
promoters.

(2) The county director of health may designate a community health officer within the county public service as a registrar to keep and maintain the register under subsection (1).

- (3) The register under subsection (1) shall include—
 - (a) bio data information on community health promoters including their—
 - (i) name and identification details; and
 - (ii) contact details;
 - (b) information on the link facility to which the community health promoters report;
 - (c) the training database for the community health promoters;
 - (d) the households assigned to each community health promoter;
 - (e) all community health promoters who have been de-registered; and
 - (f) such other information as the county government shall prescribe.

(4) There shall be kept and maintained, by the community health officer responsible for overseeing the delivery of community health services in each community health unit, an extract of the register under subsection (1) with respect to the community health promoters deployed to households in the respective community health unit.

(5) A community health promoter shall notify the community health officer in the respective community health unit of any changes to their particulars and the information shared with the registrar under subsection (2) within fourteen days of such change.

(6) The registrar shall, within seven days of receipt of the change in particulars under subsection (5)—

- (a) verify the information; and
- (b) update the change of particulars in the register.

12. Each county government shall ensure that community health promoters are adequately supported to perform their functions, including through—

Retention of community health promoters.

- (a) training;
- (b) provision of working tools;
- (c) stipend; and
- (d) supervision.

PART IV – MANAGEMENT OF PRIMARY HEALTH CARE SERVICES

13. The Ministry responsible for Health shall, in the management of primary health care services—

Role of the ministry responsible for health.

- (a) formulate, develop and disseminate primary health care policies, guidelines and other relevant frameworks;
- (b) in consultation with the county governments, provide standards and guidelines to ensure equitable primary health care service delivery;
- (c) consolidate and analyze national primary health care data from the counties and ensure its timely transmission to stakeholders for use in decision making and resource allocation;
- (d) facilitate knowledge sharing and dissemination of best practices in the provision of primary health care services;
- (e) provide capacity development and technical assistance and monitor implementation for the effective management of primary health care across the Republic of Kenya; and
- (f) coordinate, with the National Treasury and other development partners, for the mobilization and allocation of adequate resources to support the realization of accessible, acceptable and equitable primary health care services.

14. (1) There is established a Primary Health Care Advisory Council appointed by the Cabinet Secretary and which shall consist of—

Primary health care advisory council.

- (a) the Principal Secretary responsible for health matters or their representative;
- (b) The Director-General for health or their representative;
- (c) the Chairperson of the Council of County Governors or their representative;
- (d) the Principal Secretary responsible for the National Treasury or their representative;
- (e) the Chairperson of the county executive committees caucus for health;
- (f) the Chairperson of the vice-chancellors caucus or their representative;
- (g) The Chairperson of the county directors of health caucus or their representative;
- (h) the head of primary health care at the national level, who shall be the Secretary; and
- (i) any other person co-opted as the Council may determine from time to time.

(2) The members of the Council shall, in the first meeting, elect a chairperson from amongst themselves.

(3) The Council members in subsection (1) shall be appointed in writing by the Cabinet Secretary and shall serve for a period of three years.

(4) The functions of the Primary Health Care Advisory Council shall be to —

- (a) advise the Cabinet Secretary and county governments on matters related to delivery of primary health care services;
- (b) monitor, conduct periodic reviews and share information on the implementation of primary health care services;
- (c) provide guidance for effective inter-county delivery of primary health care services; and

- (d) identify and make recommendations towards effective implementation of shared primary health care facilities, services and address the social determinants of health.

(4) In the execution of its functions, the Primary Health Care Advisory Council shall be guided by the principles under the Constitution, health laws, policies, guidelines and the relevant international instruments applicable to Kenya.

15. Each county government shall, in the management of primary health care services—

Role of county governments.

- (a) oversee the implementation of the national policies, guidelines and standards on primary health care services;
- (b) mobilize and allocate adequate resources necessary for the delivery of primary health care services in the respective county;
- (c) allocate adequate funds and resources necessary for the facilitation and remuneration of the Community Health Promoters, including payment of stipends, within the respective county;
- (d) develop the necessary technological infrastructure required by the primary health providers for effective delivery of primary health care services;
- (e) put in place mechanisms to facilitate access to timely primary health care services including community and family-based care and support for patients within the respective county;
- (f) facilitate access to information regarding appropriate healthy behavior including basic information on the prevention, promotion and treatment of communicable and non-communicable diseases;
- (g) co-ordinate the implementation of training programmes for the community health-care promoters;
- (h) provide the community health promoters with the required tools of work including kits and reporting tools; and

- (i) undertake monitoring and evaluation through supportive supervision.

16. (1) Each county government shall establish a County Primary Health Care Advisory Committee.

County primary health care advisory committee.

(2) A County Primary Health Care Advisory Committee shall consist of—

- (a) the county executive committee member responsible for health, who shall be the chairperson;
- (b) a representative from the county department responsible for environment;
- (c) a representative from the county department responsible for social protection;
- (d) a representative from the county department responsible for education;
- (e) a representative from the county department responsible for finance and planning;
- (f) a representative from the county department responsible for the county public service board;
- (g) a representative from the county department responsible for water and sanitation;
- (h) a representative from the county department responsible for roads;
- (i) a representative from the county department responsible for agriculture;
- (j) the county commissioner or their representative designated in writing; and
- (k) the county director of health who shall be the secretary to the committee.

(2) The Committee members in subsection (1) shall be appointed in writing by the county executive committee member and shall serve for a period of three years.

(3) A County Primary Health Care Advisory Committee shall, in each respective county, perform the following functions—

- (a) promote oversight, monitor and evaluate the implementation of primary health care;

- (b) identify and advocate for key primary health care issues with the respective county health departments;
- (c) receive, work constructively and address applicable community primary health care issues, care coordination and develop innovative ideas for service delivery;
- (d) promote communication between the health department, other stakeholders and the community;
- (e) provide beneficiary input on departmental activities, policies, plans and projects at the individual, program, organization and system levels in the county;
- (f) propose further opportunities for community engagement that will promote primary health care improvements in the county;
- (g) provide advice and input into primary health care issues;
- (h) carry out advocacy and resource mobilization;
- (i) fairly represent the views of the community;
- (j) gather the views of the community they represent through their primary health care networks;
- (k) provide feedback after meetings to members of the community;
- (l) provide leadership and advice in relation to the beneficiary and community views on primary healthcare and primary health care network service delivery, planning and development in the relevant county; and
- (m) submit quarterly reports to the Primary Health Care Advisory Council.

17. (1) Each county executive committee member for health shall, subject to subsections (2) and (3) and by notice in the *Gazette*, establish a Primary Health Care Network at the sub-county level.

Primary health
care networks.

(2) A primary health care network shall serve a catchment population as shall be determined by the County Primary Health Care Advisory Committee.

(3) A primary health care network shall comprise of a hub and spokes.

(4) A primary health care network shall facilitate delivery and access to primary health care services from the community, as well as coordinate with health facilities in order to improve the overall operational efficiency of the network.

(5) Every person shall be registered as a member of a primary health care network.

18. (1) Each primary health care network may have a committee which shall comprise of—

Primary health care network committee.

- (a) five representatives of the sub-county health management team, nominated by the county executive committee member;
- (b) a representative of the faith based health providers;
- (c) a representative of the private sector providers;
- (d) a representative from a community health committee;
- (e) a representative of development partners; and
- (f) the sub-county commissioner.

(2) The members of the committee shall, in the first meeting, elect a chairperson from amongst themselves.

(3) The committee members in subsection (1) shall be appointed in writing by the county executive committee member and shall serve for a period of three years.

(4) The committee shall perform the following functions—

- (a) coordinate the implementation of programmes for optimal functioning of the Primary Health Care Network;
- (b) support the Primary Health Care Network to set targets in line with agreed county targets and local health needs;

- (c) lead prioritization of service package or range of services to be offered through the Primary Health Care Network;
- (d) ensure equitable distribution of resources and health services within the Primary Health Care Network;
- (e) reference and implement human resource management plans to ensure availability and equitable distribution of health care workers and community health promoters as per level of care;
- (f) support supervision and coordination of mentorship and training activities by the multi-disciplinary teams;
- (g) consolidate and analyze the Health Management Information System data including community health for completeness and validity from the Primary Care Network to make timely decisions at the sub-county level; and
- (h) mainstream and facilitate integration of services to optimize on available resources and avoid duplications.

19. (1) Each county government shall establish and operationalize community health units in accordance with the Kenya Community Health Policy.

Community Health Units.

(2) A community health unit shall serve a catchment population of up to five thousand persons in accordance with national guidelines.

(3) A community health unit shall comprise of approximately one thousand households in accordance with national guidelines.

(4) A Community Health Unit shall, under the coordination of a Community Health Committee, be linked to a health care facility to facilitate delivery and access to primary health care services for the community.

20. (1) Each Community Health Unit shall have a community health committee which shall comprise of—

Community Health Committee.

- (a) a representative of faith based organizations;

- (b) a representative of the community;
- (c) a representative of special interest groups;
- (d) a representative of the community health promoters;
- (e) any other co-opted member as per community health needs; and
- (f) the Community Health Officer, who shall be the secretary

(2) The members of the committee shall, in the first meeting, elect a chairperson from amongst themselves.

(3) The committee members in subsection (1) shall be appointed in writing by the county executive committee member and shall serve for a period of three years.

(4) The functions of the Community Health Committee shall be to—

- (a) provide leadership and oversight in the implementation of health and other related community services;
- (b) coordinate the selection of community health promoters within the community health unit in a public participation forum;
- (c) prepare and present the Community Health Unit annual work-plans and operational plans to the link facility health committee;
- (d) plan, coordinate and conduct community dialogue and health action days;
- (e) work with the link facility to promote facility accountability to the community;
- (f) hold quarterly consultative meetings with the link facility;
- (g) create an enabling environment for implementation of community health services; and
- (h) mobilize resource for sustainability.

PART VI- MISCELLANEOUS PROVISIONS

21. (1) All rights and obligations, however arising, of the national and county government and subsisting before the effective date shall continue as rights and obligations of

Transitional provisions

the national and county governments as assigned under this Act.

(2) All personnel appointed by the county public service boards and serving under each county government in respect of community health services shall be deemed to be in the service of the county government on the effective date.

22. (1) A Community Health Promoter shall not—

Offences and penalties.

- (a) conduct any procedure that is beyond their training and approved scope of work;
- (b) administer to a person medication that is not authorized by clinical standards and guidelines under this Act or any other applicable law;
- (c) conduct deliveries for pregnant women;
- (d) negligently handle property entrusted to them;
- (e) use tools, gadgets or properties under their custody for purposes other than the delivery of community health services authorized under this Act and any other applicable law;
- (f) solicit financial or other rewards for personal gain whether or not in recognition of effort in delivering services to the community;
- (g) withdraw services as community health promoters without giving notice of intention to do so, except in a case of emergency;
- (h) falsify any records or data collected by them in course of duty;
- (i) engage in other activities that may conflict with their duty; and
- (j) disclose the client's health information to an unauthorized person.

(2) Any community health promoter who contravenes the provisions of this section shall be subject to disciplinary actions as prescribed by law.

23. The Cabinet Secretary shall make regulations generally for the better carrying out of the provisions of this Act.

Regulations.

MEMORANDUM OF OBJECTS AND REASONS

Statement of objects and reasons for the Bill

The principal object of this Bill is to establish a framework for the delivery of, access to and management of primary health care. The framework creates an elaborate primary healthcare network at each county and sub-county level to ensure equitable distribution of resources and health services.

The Bill proposes the establishment of a Primary Healthcare Advisory Council that advises the national government and county governments on implementation of primary health care services.

The Bill also establishes the County Primary Health Care Advisory Committees at the county level that is tasked to ensure the effective implementation of primary healthcare through resource mobilization, advocacy and the planning and development of primary healthcare service delivery.

PART I (Clause 1-3) of the Bill contains preliminary provisions.

PART II (Clause 4-7) of the Bill contains provisions on primary health care services that are accessible at the community level and at health facilities. The provisions mandate the county governments to facilitate the delivery of these services.

PART III (Clause 8-12) of the Bill contains provisions establishing the primary healthcare workforce. The workforce includes community health promoters and health care providers. The provisions set out the recruitment process of community health promoters by the county government public service board and their functions and obligations.

PART IV (Clause 13-20) of the Bill contains provisions on the management of primary health care services. They provide for the roles of the National Government through the Ministry of Health, county governments and the various administrative committees and advisory councils that are established.

PART V (Clause 21-23) of the Bill contains miscellaneous provisions. They include transitional provisions, provisions on offences and penalties and on delegated powers granting the Cabinet Secretary for Health powers to make subsidiary legislation.

Statement on the delegation of legislative powers and limitation of fundamental rights and freedoms

This Bill delegates legislative power to the Cabinet Secretary responsible for Health to make regulations for the carrying into effect of its provisions. The Bill does not limit any fundamental rights or freedoms.

Statement on how the Bill concerns county governments

The Bill concerns county governments in that it makes provision for primary health care. This is in line with the function assigned to county governments under paragraph 2(c) of Part 2 of the Fourth Schedule to the Constitution.

The Bill therefore affects the functions and powers of county governments in terms of 110(1)(a) of the Constitution.

Statement as to whether the Bill is a money Bill within the meaning of Article 114 of the Constitution

The Bill deals with matters other than those listed in the definition of a money Bill under Article 114 (3) of the Constitution and is therefore not a money Bill within the meaning of Article 114 of the Constitution.

Dated the 14th September, 2023.

AARON CHERUIYOT,
Senator.