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ELGEYO/MARAKWET COUNTY ACTS, 2017

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No. 4 of 2017

Date of Assent; 27th July, 2017

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**THE ELGEYO/MARAKWET COUNTY PUBLIC HEALTH ACT,
2017**

AN ACT of the County Assembly of Elgeyo/Marakwet to make provisions on public health and for connected purposes

ENACTED by the County Assembly of Elgeyo/Marakwet, as follows—

PART I—PRELIMINARY

Short title

1. This Act may be cited as the Elgeyo/Marakwet County Public Health Act, 2017 and shall come into operation on such date as the Executive Committee Member, with the concurrence of the Governor, appoint.

Interpretation

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

“authorized officer” means a person who is appointed as an authorized officer under this Act;

“board” means County Health Management Board established pursuant to this Act;

“category 1 condition” means a medical condition listed under Category 1 in Schedule “Category 2 condition” means a medical condition listed under Category 2 in Schedule “Category 3 condition” means a medical condition listed under Category 3 in Schedule “Category 4 condition” means a medical condition listed under Category 4 in Schedule “Category 5 condition” means a medical condition listed under Category 5 in Schedule 1.

“constitution” means the Constitution of Kenya, 2010;

“case” means a person who has been diagnosed to have a particular disease or condition. “Suspected case” means a person who has been diagnosed as likely to have a particular disease or condition;

“outbreak” means an increased incidence of disease above its expected or baseline level;

“executive committee” means Elgeyo/Marakwet county executive committee established in accordance with Article 176 of the Constitution;

“community health unit” means the frontline community health service delivery structure located within the county health system comprising of a cluster of villages;

“county” means Elgeyo/Marakwet County;

“community” means the area for which a community health unit has been established pursuant to this Act;

“community health committee” means a community health committee established pursuant to this Act;

“community health plan” means a plan for community-based health services and the improvement of the health of the community;

“community-based health services” means health-care services that can be provided to people in their communities and includes health education, health promotion, disease prevention, mental-health services, emergency health services, addiction services, public-health services, home care, long-term care, rehabilitation services, palliative-care services and treatment for illness and injury in relation to primary care;

“community health extension worker” mean a public health officer or an enrolled community health midwife appointed by the County Public Service Board of the County and deployed to provide preventative and promotive health and basic health care services to the community;

“health services” include services provided through hospitals and other health-care institutions, public-health services, addiction services, emergency health services, mental-health services, home-care services, long-term care and such other health services as the executive committee member may from time to time prescribe;

“out of pocket expenses” are not defined but should be read to cover expenses an individual incurs directly in carrying out volunteer work;

“volunteer” means a person who is acting on a voluntary basis irrespective of whether the person receives out of pocket expenses;

“community Health Volunteer” means a frontline public health worker who is a trusted member or has an unusually close understanding of the community served;

“community Health Volunteer practice” includes education, training, and experience on the core competencies in order to effectively provide services to the communities and populations served through a variety of distinct roles that are indicative of community health volunteer best practices. The core competencies may include, but are not limited to and

- (a) client and community assessment;
- (b) effective community-based and participatory methods, including research;

- (c) culturally competent communication and care;
- (d) health education for behaviour change;
- (e) support, advocacy and health system referral for clients;
- (f) individual and community capacity building and mobilization;
- (g) writing, oral, and technical communication skills;
- (h) Handling commodity supplies and equipment.

“county *Gazette*” means a *gazette* published by the authority of the county government or a supplement of such *gazette*;

“drinking water” means water that is intended, or likely, to be used for human consumption, or for purposes connected with human consumption, such as—

- (a) the washing or cooling of food; or
- (b) the making of ice for consumption, or for the preservation of unpackaged food, whether or not the water is used for other purposes.

“government” means Elgeyo/Marakwet county government;

“treatment” of water means any process or technique used to improve the quality of water;

“function” includes a power, authority or duty;

“health practitioner” has the same meaning as it has in the national health Act;

“bar” means any area, including outdoor seating areas, devoted to the sale and service of alcoholic beverages for on-premises consumption and where the service of food is only incidental to the consumption of such beverages;

“employer” means any person, partnership, association, limited liability company, corporation or non profit entity which employs one or more persons, including the legislative, executive and judicial branches of state government and any political subdivision of the state;

“food service establishment” means any area, including outdoor seating areas, or portion thereof in which the business is the sale of food for on-premises consumption;

“membership association” means a not-for-profit entity which has been created or organized for a charitable, philanthropic, educational, political, social or other similar purpose;

“place of employment” means any indoor area or portion thereof under the control of an employer in which employees of the employer perform services, and shall include, but not be limited to, offices, school grounds, retail stores, banquet facilities, theatres, food stores, banks, financial institutions, factories, warehouses, employee cafeterias, lounges, auditoriums, gymnasiums, restrooms, elevators, hallways, museums, libraries, bowling establishments, employee medical facilities, rooms or areas containing photocopying equipment or other office equipment used in common, and company vehicles;

“school grounds” means any building, structure, and surrounding outdoor grounds contained within a public or private pre-school, nursery school, elementary or secondary school's legally defined property boundaries as registered in a county clerk's office, and any vehicles used to transport children or school personnel;

“retail tobacco business” means a sole proprietorship, limited liability company, corporation, partnership or other enterprise in which the primary activity is the retail sale of tobacco products and accessories, and in which the sale of other products is merely incidental;

“smoking ” means the burning of a lighted cigar, cigarette, pipe or any other matter or substance which contains tobacco;

“county” means the County Government of Elgeyo/Marakwet;

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

“veterinarian” means an officer appointed;

“public health officer” means a public health officer appointed under the Public Health Act Cap 242;

“controlled Confinement” means when a dog is confined in a cage or building or securely tethered in a manner that will not allow the dog to bite or harm any person or animal;

“damage to Public or Private Property” shall include defecating or urinating on such property;

“dog” or “dogs” means either male or female of any domesticated canine species;

“kennel” means any place, owned by a person, group of persons or corporation engaged in the commercial business of breeding, buying, selling or training of dogs;

“license Tag” means an identification tag of metal or other material issued by the County showing the license number for the specific dog;

“owner” means a person who has the care, charge, custody, possession or control of a dog or a person to whom a License Tag was issued for a dog in accordance with the regulations;

“police Service Dog” means a dog owned and utilized by the Kenya Police;

“serious Wound” means an injury resulting from a dog bite which causes the skin to be broken or the flesh to be broken;

“authorized officer” means a person duly appointed as such by the county or any other body lawfully authorized to make such appointment;

“occupier” of premises or a part of premises (including premises that are vacant) means—

- (a) except as provided by paragraph (b), the owner of the premises or part; or
- (b) if any other person is entitled to occupy the premises or part to the exclusion of the owner, the person so entitled.

“arthropod” means a mosquito or other invertebrate animal with jointed legs and a segmented body;

“integrated pest management ” means modification of the life system of a vector or pest to reduce its numbers to an acceptable level by applying current biological and technological knowledge to achieve the desired modification in a manner that ensures protection of the environment and public health;

“pest” means undesirable arthropods (including certain insects, spiders, mites, ticks and related organisms), wood infesting organisms, rats, mice, birds and any other obnoxious or undesirable animals;

“vector” means arthropods, rats, mice, birds or other animals capable of carrying disease-producing organisms to a human or animal host;

“vector” does not include animals that transmit disease to humans only when used as human food;

“noxious article” means any article or animal that—

- (a) has been in contact with a person who has an infectious disease that is transmissible by contact with the article or animal; or
- (b) is or is likely to be infested with vermin, or is or is likely to be a risk to health as a result of its having been in contact with any article, person or animal that is infested with vermin.

“premises” includes any land, temporary structure, vehicle or vessel;

“public authority” means an incorporated or unincorporated body constituted by or under an Act for a public purpose;

“public health officer” means a Public Health Officer appointed under

this Act;

“public place” means a place (including a place in any vehicle or vessel) that the public, or a section of the public, is entitled to use or that is open to, or is used by, the public or a section of the public (whether on payment of money, by virtue of membership of a club or other body, or otherwise);

“scheduled medical condition” means any medical condition listed in Schedule 1;

“skin penetration procedure” means any procedure (whether medical or not) that involves skin penetration (such as acupuncture, tattooing, ear piercing or hair removal), and includes any procedure declared by the regulations to be a skin penetration procedure;

“temporary structure” includes a booth, tent or other temporary enclosure (whether or not part of the booth, tent or enclosure is permanent), and also includes a mobile structure;

“unsafe water” means—

- (a) drinking water that the Executive Committee Member suspects to be unfit for human consumption; or
- (b) any other water that the Executive Committee Member suspects is, or is likely to be, a risk to public health.

Objectives of the Act

3. (1) The objects of this Act are as follows—

- (a) to promote, protect and improve public health;
- (b) to control the risks to public health;

- (c) to promote the control of infectious diseases;
- (d) to prevent the spread of infectious diseases; and
- (e) to recognise the role of county government in protecting public health.

(2) The protection of the health and safety of the public is to be the paramount consideration in the exercise of functions under this Act.

Responsibilities of county government relating to environmental health

4. (1) The Executive Committee Member shall take appropriate measures to ensure compliance with the requirements of this Act.

(2) In exercise of functions of this Act the Executive Committee Member shall appoint authorized officers to exercise functions under this Act.

PART II—ADMINISTRATION

Establishment of the County Public Health Management Board

5. (1) There shall be established a County Public Health Management Board (hereinafter referred to as the board), which shall consist of the Chief officer of Health (who shall be the chairperson), all Directors responsible for provision of Health Services and such other person or persons not exceeding six (three of whom shall be health care practitioners) as are appointed from time to time by the executive committee member.

(2) The functions of the board shall be to advise the executive committee member upon all matters affecting the public health.

(3) The executive committee member may make rules as to the convening and holding meetings of the board, the quorum thereof, the procedure thereat, allowances payable to members thereof and the circumstances in which any member shall vacate his membership.

Sub committees of the board

6. (1) The Board shall appoint from among its members three committees to deal with—

- (a) finance and general purposes;
- (b) quality of preventive and promotive health services; and

(2) The Board may from time to time appoint from among the members of the public ad hoc committees to provide technical and specialist advice to the Board.

Appointment of a Public Health and Sanitation Director

7. (1) The County Public Service Board shall appoint a director of public health and sanitation for the purpose of exercising public health functions within the county.

(2) The director appointed under this section shall be a public health officer.

(3) The director appointed under this section shall carry out such duties in relation to public health and sanitation as the Executive Committee Member may respectively assign.

Designation of Public Health Officers

8. The County Public Service Board shall competitively designate qualified individual to be the public health officer in charge of—

- (a) Sub-County Public Health Services who shall act as deputy directors.
- (b) Ward Public Health Services; or

The public health officer for a part of the County for the purpose of exercising particular public health functions.

Functions of Public Health Officers

9. The Public Health Officers designated under section 8 shall be authorized officers to coordinate all the Public Health activities and ensure enforcement of this act in their areas of jurisdiction.

Powers of authorized officers

10. (1) For the purposes of this Act, an authorized officer—

- (a) may enter and inspect any premises or vessels of conveyance, either alone or together with such other persons as the authorized officer considers necessary; and
- (b) may inspect any documents that are on the premises or vessels of conveyance and, for that purpose, may direct the occupier of the premises—
 - (i) to make available for inspection any documents that are in the possession, or under the control, of the occupier; or

(ii) in the case of a document that is not in writing but is capable of being reduced to writing, to produce, and make available for inspection, a written copy of the document; and

- (c) may make copies of, or take extracts from, any such documents;
- (d) may, for the purpose of analysis, take samples of any substance found on the premises or vessels of conveyance;
- (e) may examine and inspect any apparatus or equipment on any premises;
- (f) may take such photographs, films and audio, video and other recordings as the authorized officer considers necessary; and
- (g) may, for the purpose of collecting evidence of a contravention of this Act or the regulations, take samples of any substance or take possession of anything that the authorized officer believes may constitute such evidence.

(2) An authorized officer may not exercise a power conferred by subsection (1) unless the authorized officer—

- (a) is in possession of a search warrant or a certificate of authority that identifies him or her as an authorized officer;
- (b) produces the warrant or certificate of authority if required to do so by the occupier of the premises;
- (c) gives reasonable notice to the occupier of the premises of intention to exercise the power, unless the giving of notice would defeat the purpose for which it is intended to exercise the power; and
- (d) exercises the power at a reasonable time, unless it is being exercised in an emergency.

(3) A certificate of authority under section 2 (a) shall be issued by the person who appoints the authorized and shall—

- (a) give the name of the person to whom it is issued;
- (b) describe the nature of the powers conferred and the source of the powers;
- (c) state the date, if any, on which it expires;
- (d) describe the kind of premises to which the power extends; and
- (e) be signed by the person issuing the certificate and indicate the designation of such person.

(4) This section does not authorize entry into any part of premises that is used solely for residential purposes, except—

- (a) with the consent of the occupier of the premises; or
- (b) under the authority of a search warrant.

(5) An authorized officer who enters any premises in pursuance of this section may do so without paying any admission fee.

Exercise by public health officers of functions of authorized officers

11. The public health officer for a part of the County may exercise any of the functions of an authorized officer.

Enforcement of Act

12. (1) The Executive Committee Member may authorize any health officer to inspect a public authority's documents in relation to public health and, for that purpose, may direct the public authority;

- (a) to make any such document available for inspection; or
- (b) in the case of a document that is not in writing but is capable of being reduced to writing, to produce, and make available for inspection, a written copy of the document.

(2) The Executive Committee Member may make copies of, or take extracts from, any documents made available under this section.

Inquiries by Executive Committee Member

13. (1) The Executive Committee Member may inquire into—

- (a) any matter relating to public health;
- (b) any matter that, under this Act, authorizes an order or direction by, or that requires the approval or consent of, the Executive Committee Member; or
- (c) any alleged offence under this Act or the regulations.

(2) The Executive Committee Member may authorize an expert in writing to exercise the functions specified by the authority for the purposes of assisting the inquiry.

(3) The person's authority may authorize the person to exercise any of the functions of an authorized officer under this Part that are specified in the authority.

(4) For the purposes of an inquiry, the Executive Committee Member may obtain, use and disclose any information obtained by the Executive

Committee Member under this Act, if the Executive Committee Member is of the opinion that it is reasonably necessary to do so for the purposes of the inquiry or for the purposes of protecting the health of the public.

(5) No other provisions of a statute shall override the provisions of this section.

Delegation of the Executive Committee Member functions

14. The Executive Committee Member may delegate any of the Executive Committee Member functions under this Act, other than this power of delegation, to any persons.

Discharge of duties

15. Public health officers may with the authority and on behalf of the Executive Committee Member discharge any of the duties or functions under this Act, and any duties imposed or powers conferred by this Act on public health officers.

PART III— GENERAL PROVISIONS ON PUBLIC HEALTH

Power to deal with public health risks during state of emergency

16. (1) If the Executive Committee Member considers on reasonable grounds that the emergency is, or is likely to be, a risk to public health the Executive Committee Member —

- (a) may take such action; and
- (b) may by order give such directions as the Executive Committee Member considers necessary to deal with the risk and its possible consequences.

(2) Without limiting subsection (1), an order may direct—

- (a) all persons in a specified group; or
- (b) all persons residing in a specified area, to submit themselves for medical examination in accordance with the order.

(3) An order shall be published in the County Gazette as soon as practicable after it is made, but failure to do so does not invalidate the order.

(4) Unless it is earlier revoked, an order expires when the emergency is under control.

Establishment of County Public Health Laboratory

17. (1) (a) The County Executive Member shall establish a County Medical and Public Health Laboratory where examinations of specimens of blood, spinal fluid, sputum, stool, urine, gastric washings, exudates, water, food or any other specimen or discharge or health related tests are made for the purpose of determining the presence or absence of an infectious agent.
- (b) The institution shall be headed by a specialist in laboratory technology who shall be a registered member under the Medical Laboratory Technicians and Technologists Act-9No. 10 of 1999) and shall be appointed by the CPSB on such terms as the Board shall determine.
- (c) The CPSB shall appoint such other staff to ensure that the laboratory functions well.
- (2) (a) If any case is reported and in opinion of the director of public health that there is need to ascertain the existence or otherwise of an infectious agent he shall present or cause to be presented to the county medical laboratory such samples that will enable such tests to be conducted.
- (b) Without prejudice to subsection (4) a medical practitioner may request such tests to be conducted at the county medical laboratory.
- (3) As soon as practicable after every test conducted at the medical laboratory, the officer in charge shall ensure—
- (a) That a written report in respect of the results is prepared and signed by a qualified person on the staff of the medical laboratory; and
- (b) That the written report is sent to the County Executive Committee Member for Health Services.

Power to deal with public health risks arising from conduct of public authorities

18. (1) If the Executive Committee Member considers that, because of an act or omission of a public authority, or of any person acting on behalf of a public authority, a situation has arisen that is, or is likely to be, a risk to public health, the Executive Committee Member may, by order in writing served on the public authority or the chief executive officer (however described) of the authority, direct the public authority or the

chief executive officer to take specified action to minimise or rectify any adverse consequences of the act or omission.

(2) If a public authority or the chief executive officer (however described) of a public authority considers that, for any reason, a situation has arisen that is, or is likely to be, a risk to public health, the public authority or chief executive officer is to notify the Executive Committee Member of that fact.

(3) A person who is subject to a direction under sub section (1) and (2), and has notice of such direction shall not, without reasonable exercise, fail to comply with the direction.

Offence not to comply with Executive Committee Member's direction

19. A person who—

- (a) is subject to a direction under section 5 or 6; and
- (b) has notice of the direction, shall not, without reasonable excuse, fail to comply with the direction.

Power to close public premises on public health grounds

20. (1) If the Executive Committee Member considers that access to any premises on which the public, or sections of the public, are required, permitted or accustomed to congregate should be restricted or prohibited in order to protect public health, the Executive Committee Member may, by order, direct that access to the premises be restricted or prohibited as specified in the order.

(2) An order shall be published in the County Gazette as soon as practicable after it is made, but failure to do so does not invalidate the order.

(3) In the case of premises that are not under the control of a Executive Committee Member, any person who—

- (a) controls, or is involved in the control of, the premises; and
- (b) has notice of the direction, shall take such reasonably practicable action as is necessary to comply with the direction.

Power to direct disinfection or destruction of noxious articles

21. (1) If the Executive Committee Member suspects that there is a noxious article on any premises, the Executive Committee Member may, by order in writing, authorize any person to enter the premises, seize anything that appears to be a noxious article and, there or elsewhere, disinfect or destroy it.

- (2) A person (other than a public authority) shall not—
- (a) transfer possession of an article to another person;
 - (b) expose an article to another person; or
 - (c) remove an article from any premises the subject of an order under subsection (1), if the person knows it to be a noxious article.

(3) A person who suffers damage as a result of the disinfection or destruction of an article is entitled to reasonable compensation unless the condition of the article that necessitated its disinfection or destruction was attributable to that person's act or default.

(4) Any such compensation is payable out of money to be appropriated by the County Assembly.

PART IV—COMMUNICABLE DISEASES

Reporting of Cases, suspected cases and certain carriers of disease

22. Every healthcare provider or a public health officer shall report any disease outbreak or unusual condition to the nearest public health office.

Public Health officer to investigate cases of communicable disease

23. Except for diseases for which equivalent measures of investigation and control are specifically provided in other sections of this Act, it shall be the duty of the public health officer, either personally or through a qualified representative, immediately upon receiving a report of a case of communicable disease—

- (a) to make such an investigation as the circumstances may require for the purpose of verifying the diagnosis, ascertaining the source of infection and discovering contacts and unreported cases;
- (b) to collect and submit, or cause to be collected and submitted, for laboratory examination such specimens as may furnish necessary or desirable information in determining the source of infection or in assisting diagnosis; and to furnish or to cause to be furnished with the specimens pertinent data on forms prescribed by the Executive Committee Member in regard to the history of the cases, the physical findings and the epidemiological investigation which indicate the need for the examinations requested;

- (c) to instruct a responsible member of the household or communities of the means to be taken to prevent further spread of the disease and to put into effect those other recognized measures which tend to reduce morbidity and mortality.

Reporting cases of communicable disease diagnosed after death

24. If a pathologist, coroner, medical examiner, or other person determines from examination of a corpse or from history of the events leading to death that at the time of death the deceased was apparently affected by a communicable disease, he/she shall report the case within 24 hours to the proper health authority in a manner prescribed by the Executive Committee Member as if the diagnosis had been established prior to death.

Reporting of communicable diseases by non-health officers

25. In the absence of any health officer, it shall be the duty of the head of a private household or the person in charge of any institution, school, hotel, boarding house, camp or vessel or any public health nurse or any other person having knowledge of an individual affected with any disease presumably communicable, to report immediately the name and address of such person to the local public health officer or health facility.

Reporting of food poisoning

26. Every public health officer, registered nurse, medical officer or any other person having knowledge of the occurrence of illness believed to have been due to the consumption of spoiled or poisonous food, shall report the same immediately, by telephone, facsimile, other electronic communication, or in person to the public health officer in whose jurisdiction it occurred.

Notification and investigation of outbreaks

27. (1) It shall be the duty of the public health or Ward public health officer to report any outbreak of illness immediately by telephone, facsimile transmission, or other electronic communication, or in person the existence of such an outbreak to the County Executive Committee Member.

(2) The sub county or ward public health officer shall exercise due diligence in ascertaining the existence of such outbreaks or the unusual prevalence of diseases, and shall immediately investigate the causes of same. A report of such investigation shall be forwarded to the County Executive Committee Member within 48 hours after the outbreak.

Isolation, Quarantine and Restriction of cases

28. (1). For the purposes of this section—

- (a) the term household contacts shall include every person in a household wherein a case of communicable disease exists;
 - (b) The term incidental contacts shall include persons other than household contacts who have been in contact with a person infected with a communicable disease;
 - (c) The date of last exposure of household contacts shall be the date of the removal of such household contacts to premises other than those where the case exists, or the date of the removal of the patient to other premises, or the date of release of the patient from isolation;
 - (d) Isolation shall consist of the separation from other persons, in such places, under such conditions, and for such time, as will prevent transmission of the infectious agent, of persons known to be ill or suspected of being infected;
 - (e) Quarantine of premises, except as specifically modified in other sections of this Act, shall consist of—
 - (i) prohibition of entrance into or. exit from the premises, as designated by the public health officer, where a case of communicable disease exists of any person other than medical attendants and such others as may be authorized by the public health officer; and
 - (ii) prohibition, without permission and instruction from the public health officer, of the removal from such premises of any article liable to contamination with infective material through contact with the patient or with his secretions or excretions, unless such article has been disinfected.
 - (f) personal quarantine shall mean restricting household contacts and/or incidental contacts to premises designated by the public health officer.
- (2) (a) It shall be the duty of the attending healthcare worker to immediately upon discovering a case of highly communicable disease as defined in this Act, to cause the patient to be isolated, pending official action by the public health officer.
- (b) Such healthcare worker shall also advise other members of the household regarding precautions to be taken to prevent further

spread of the disease and shall inform them as to appropriate specific preventive measures.

- (c) The health worker shall in addition furnish the patient's attendant with such detailed instructions regarding the disinfection and disposal of infective secretions and excretions as may be prescribed by the Executive Committee Member.

(3) whenever a case of a highly communicable disease as defined in this Act comes to the attention of the sub county public health officer he shall isolate such patients as in his judgment he deems necessary.

Cleansing, renovation or disinfection, when required

29. (1) Adequate cleansing, renovation or disinfection of rooms, furniture, clothing and belongings when deemed necessary by the public health officer shall immediately follow release, death or removal of a person affected with a communicable disease.

(2) Such cleansing, renovation or disinfection shall be done under the direction of the public health officer.

(3) Any furniture, bedding, clothing, carpets, rugs or other articles which may have been contaminated with infective material and which are of such nature or in such condition that they cannot, in the opinion of the public health officer, be properly cleansed or disinfected, shall upon his order be destroyed in the manner designated by him.

Duties of undertakers and morgue attendants

30. (1) (a) It shall be the duty of every person taking charge of the preparation for burial of a body of any person to ascertain whether such person died of a communicable disease, and if such person died of a highly communicable disease as defined in this Act, it shall be his duty to cause it promptly to be placed in a coffin or casket, which shall then be immediately and permanently closed.

(b) This section shall not be construed to prohibit the embalming of any such body, but if the body is to be embalmed the undertaker shall cause such embalming to be done immediately upon taking charge of the body and causing it to be placed in a coffin or casket and permanently closed.

(c) After handling, embalming, or preparing for burial the body of a person who died of a communicable disease, such parts of the person's garments, and utensils or other articles of the

undertaker or his assistants, as may have been liable to contamination with infective material, shall be immediately cleansed or disinfected or sterilized.

PART V—ENVIRONMENTAL HEALTH

Drinking water shall be fit for human consumption

31. A person shall not, supply any other person with drinking water that is not fit and safe for human consumption.

Power to take action with respect to unsafe water

32. (1) The Executive Committee Member may take such action, and by order give such directions, as he considers necessary to—

- (a) prevent the use of unsafe water; and
- (b) to take such measures to ensure that the water is safe for consumption.

(2) Before giving a direction to a supplier of drinking water constituted under an Act, the Executive Committee Member shall consult with the Chief Executive Officer of the supplier.

Compliance with Executive committee Member's direction

33. (1) A person who—

- (a) is subject to a direction under section 11; and
- (b) has notice of the direction, shall not, without reasonable excuse, fail to comply with the direction.

(2) If a direction under section 33 is not complied with, the Executive Committee Member may take the action referred to in the direction and: may recover an amount equal to the cost of doing so as a debt owed by the person to the government.

Power to direct testing of drinking water

34. (1) The Executive Committee Member may, by notice in writing, direct a supplier of drinking water to carry out such tests on the drinking water that it has available for supply, or on any substance used in or produced by the treatment of any such water, as the Executive Committee Member considers appropriate.

(2) Any such direction may specify that the test to be carried out on water is to be carried out in any one or more of the following ways—

- (a) on the water in its raw state;

- (b) while the water is undergoing treatment;
- (c) after the water has been treated or partly treated.

Power to direct production of information

35. (1) The Executive Committee Member may, by notice in writing, direct a supplier of drinking water to produce such information as the Executive Committee Member may specify concerning—

- (a) the quality of the drinking water that the supplier has available for supply; and
- (b) the methods by which the water is treated.

(2) The information to be produced may include (but is not limited to) the following—

- (a) copies of relevant records of the supplier,
- (b) the results of any tests required under this Act,

(3) The information shall be provided in such form and manner as the Executive Committee Member may direct.

Compliance with Executive Committee Member's direction

36. (1) A supplier of drinking water to which a direction is given under section 13 or 14 shall not, without reasonable excuse, fail to comply with the direction.

(2) If a direction under this section is not complied with, the Executive Committee Member may take the action referred to in the direction.

The Executive Committee Member responsible for determining necessity for boil water advices

37. The Executive Committee Member may from time to time decide, in relation to any supplier of drinking water—

- (a) whether or not it should issue a boil water advice for the drinking water it supplies or has available for supply;
- (b) whether or not it should provide additional information to the public in connection with any boil water advice it issues; and
- (c) whether or not a boil water advice is to be retracted or corrected.

Advice to public

38. (1) The Executive Committee Member may from time to time prepare advice, for the benefit of the public, concerning the safety of available drinking water (or drinking water available from a particular supplier of drinking water) and any possible risks to health involved in the consumption of that water.

(2) The advice may include a boil water advice.

(3) The Executive Committee Member is to provide the advice in writing to the relevant supplier of drinking water.

(4) The supplier of drinking water to whom the advice is provided shall issue the advice to the public in such form and manner as the Executive Committee Member may direct by notice in writing.

(5) The Executive Committee Member may also issue the advice to the public as the Executive Committee Member deems fit.

Correction of misleading information

39. (1) The Executive Committee Member may, by notice in writing, direct a supplier of drinking water to retract or correct any information or advice issued, by or on behalf of the supplier, to the public in relation to the safety of the supplier's drinking water if the Executive Committee Member is of the opinion that the information or advice is inaccurate, incomplete or otherwise misleading.

(2) The Executive Committee Member may specify any one or more of the form, content and manner of the retraction or correction and of its publication.

(3) A supplier of drinking water to which a direction is given under this section shall not, without reasonable excuse, fail to comply with the direction.

(4) If a direction given to a supplier of drinking water is not complied with, the Executive Committee Member may take the action referred to in the direction and may recover an amount equal to the cost of doing so as a debt owed by the person to the government.

Protection from liability

40. (1) The Executive Committee Member exercising any function under this Act, or by providing a direction under this Act in good faith shall not be liable to any action, liability, claim or demand.

(2) A reference in this section to the exercise by the Executive Committee Member of a function includes a reference to a decision by the Executive Committee Member not to exercise that function.

Quality assurance programs

41. (1) A supplier of drinking water shall establish, and adhere to, a quality assurance program that complies with the requirements prescribed by the regulations.

(2) The regulations may make provision for or with respect to any of the following—

- (a) the tests on water and other substances to be carried out by a supplier of drinking water pursuant to this Act; or
- (b) the records to be maintained by a supplier.

(3) The Executive Committee Member may, by notice in writing, exempt a supplier of drinking water or class of suppliers from subsection (1) if the Executive Committee Member is satisfied that the supplier, or class of suppliers, is subject to other appropriate licensing or other regulatory requirements.

PART VI—VECTOR CONTROL

Responsibility of the Directorate of Public Health and Sanitation

42. (1) The Directorate of public health shall have the responsibility and authority to—

- (a) Investigate threats or potential threats to the public health relating to mosquitoes and other potential vectors of disease associated with the improper storage, handling and disposal of tires, improper waste disposal, or natural conditions.
- (b) Conduct ongoing surveillance and monitoring activities for mosquitoes and other arthropod vectors of disease, and conduct surveillance of animals that provide a reservoir for disease producing organisms.
- (c) Conduct training activities to promote integrated pest management programs.
- (d) Respond to inquiries, investigate complaints, conduct evaluations, and provide technical consultation to help reduce or eliminate public health hazards and nuisance conditions associated with mosquitoes and other vectors.

(2) Upon request by the State Department of Health, the Department of Health shall conduct an evaluation of the disease transmission potential of a site containing vectors of disease.

(3) Based on the findings of that evaluation, the Department shall recommend to the requesting agency ways to reduce or eliminate the vectors.

Existence of a public health hazard

43. (1) If, as the result of an investigation, the Department of public Health determines that a public health hazard exists at a site due to mosquitoes or other vectors, it may order such remedial measures as it deems necessary.

(2) The Department of Public Health may arrange for a cleanup of a site determined to be a public health hazard, or for the application of pesticides at such a site, if the person responsible for the site refuses to take timely appropriate action, provided that if the Department of Public Health does the cleanup of the site, it shall require the person responsible for the site to pay the cost of the cleaning.

(3) If, as the result of an investigation, the Department of Health determines that the public interest, safety, or welfare imperatively requires emergency action to respond to an immediate public health hazard at a site due to mosquitoes or other vectors, the Executive Committee Member may issue an emergency order incorporating a finding to that effect; such order may require closure or isolation of the site, pending a hearing or other action which shall be promptly instituted and determined.

Powers to inspect sites

44. (1) The Department of Public Health shall have the authority to inspect any site to determine the potential risk to the public health due to mosquitoes or other vectors.

(2) If the Department of Public Health is denied access to a site which it reasonably believes may pose a public health hazard due to mosquitoes or other vectors, it shall request intervention of law enforcement agencies to seek a court order or warrant to examine the site.

(3) Any person or entity preventing the Department of Public Health or its designated agent from carrying out its duties under this Section shall be guilty of an offence.

Prevention and destruction of mosquitoes

45. (1) Every occupier or, in the absence of the occupier, every owner of a building or land within any of the areas to which this Act applies shall take all the prescribed measures and in addition all such other measures as are reasonably necessary to prevent the breeding of mosquitoes in or on such building or land which an authorized officer may by notice in writing order him to take.

(2) In the case of two or more persons being joint occupiers or joint owners, each of them shall be deemed an occupier or owner for the purposes of this section.

(3) Where any such occupier or owner fails to take any of the measures which he is required to take under subsection (1), the authorized officer may, on giving not less than fourteen days' notice in writing of its intention so to do, cause such measures to be taken; and thereupon such occupier or owner shall, without prejudice to any penalty which he has incurred through such failure, be liable to pay all the costs of such undertaking, which shall be recoverable as a debt by the County Government.

(4) The owner of any hotel, boarding-house, lodging-house and any building where persons are accommodated for payment shall provide and keep in good order and repair and in a state of cleanliness a mosquito net for each bed in each room used for sleeping purposes.

(5) Any mosquito net issued by the Department of Health shall only be used as a bed net.

(6) Any person who uses a mosquito net issued by the Department of Public Health for other purposes other than a bed net shall be guilty of an offence.

PART VII—SCHEDULED MEDICAL CONDITIONS**Precautions against spread of certain medical conditions**

46. (1) A person who—

- (a) has a category 2, 3, 4 or 5 condition; and
- (b) is in a public place, shall take reasonable precautions against spreading the condition.

(2) A person who deliberately or without any reasonable cause fails to take precaution in spreading a condition under sub section (1) commits an offence.

(3) It is a defence to proceedings for an offence under this section if the defendant satisfies the court that at the time of commission of the alleged offence, the defendant was not aware that he or she had the medical condition on which the prosecution is based.

Notification of death arising from scheduled medical condition

47. Immediately after registering the death of a person where the apparent cause of death involves a scheduled medical condition, the Registrar of Births and Deaths shall cause and send the notice of death to the Executive Committee Member, in the approved form, stating the following—

- (a) the name, address and age of the deceased;
- (b) the name of the scheduled medical condition;
- (c) the name and qualification of the person who certified the cause of death; and
- (d) such other particulars as may be prescribed by the regulations.

Medical practitioner to notify Executive Committee Member of Category 1 and 2 conditions

48. (1) This section applies if a registered medical practitioner attends to a person in connection with a category 1 condition, or reasonably suspects that the person has category 2 condition or reasonably suspects that the cause of a person's death is category 1 or 2 condition.

(2) In these circumstances, the registered medical practitioner shall, as soon as practicable—

- (a) record such particulars concerning the person's medical condition as may be prescribed by the regulations; and
 - (b) send to the Executive Committee Member a certificate, in the approved form, of the particulars so recorded.
- (3) The registered medical practitioner—
- (a) shall keep any such particulars for the period prescribed by the regulations; and
 - (b) shall provide the Executive Committee Member with such further information concerning the person's medical condition and transmission and risk factors as is available to the medical practitioner and as the Executive Committee Member may request.

(4) A registered medical practitioner who attends a person as a patient at a hospital is not required to comply with this section if—

- (a) the Category 1 or 2 condition concerned is a notifiable disease; and
- (b) the medical practitioner believes on reasonable grounds that the Executive Committee Member has been notified of the disease.

(5) A registered medical practitioner shall not, without reasonable excuse, fail to comply with the requirements of this section.

(6) It is a defence to proceedings for an offence under this section if the defendant satisfies the court—

- (a) that the record alleged not to have been made or kept; or
- (b) that the certificate alleged not to have been sent, had been made, kept or sent by another registered medical practitioner.

(7) This section applies to a person engaged in an occupation prescribed by the regulations in the same way as it applies to a registered medical practitioner.

Pathology laboratories to notify Executive Committee Member of

Category 3 conditions

49. (1) This section applies if—

- (a) a pathology test is carried out at the request of a registered medical practitioner (“the requesting practitioner”) for the purpose of determining whether a person has a category 3 condition; and
- (b) the test has a positive result.

(2) In these circumstances, the person who certifies the test results (“the certifier”) shall send to the Executive Committee Member a report, in the approved form, as to those results as soon as practicable.

(3) If the certifier so requests, the requesting practitioner shall provide the certifier, within 72 hours after the request is made, with sufficient information to enable the report to be completed.

(4) On receiving a report that appears to be incomplete or incorrect, the Executive Committee Member may ask any medical practitioner involved in the treatment of the person concerned to provide—

- (a) such information as is necessary to complete or correct the report; and

- (b) such other information concerning the person's medical condition and transmission and risk factors as is available to the medical practitioner.

(5) A medical practitioner who is asked to provide such information is authorized to do so.

Protection of patient's identity

50. (1) A registered medical practitioner shall not include a patient's name or address—

- (a) in a certificate under section 23, if the condition to which the certificate relates is a Category 5 condition; or
- (b) in a written or oral communication made by the medical practitioner for the purpose of arranging a test to determine whether the patient has a Category 5 condition.

(2) Subsection (1) (b) does not apply if the patient concerned—

- (a) is receiving hospital services or other health services, provided by a hospital; or
- (b) consents to the disclosure of his or her name and address in the relevant communication.

(3) A person who, in the course of providing a service, including the conduct of a pathology test under section 25, acquires information that another person—

- (a) has been, is to be or is required to be tested for a Category 5 condition; or
- (b) is, or has had, a Category 5 condition, shall take all reasonable steps to prevent that information from being disclosed to any other person.

(4) Subsection (3) does not apply to the disclosure of such information—

- (a) with the consent of the person concerned;
- (b) to a person who is involved in the provision of care, treatment or counselling to the person concerned so long as the information is relevant to the provision of such care, treatment or counselling;
- (c) in connection with the administration of this Act or the regulations;

- (d) for the purposes of any legal proceedings arising out of this Act or the regulations, or of any report of any such proceedings;
- (e) in the circumstances prescribed by the regulations.

(5) A registered medical practitioner or other person shall not, without reasonable excuse, fail to comply with the requirements of this section.

Notification of other conditions

51. (1) A registered medical practitioner or a person who provides a pathology service who is of the opinion that a patient is suffering from a medical condition or disease that may pose a significant risk to public health may notify the Executive Committee Member in writing in the approved form of particulars of the person and the condition or disease.

(2) On receiving a notification under this section, the Executive Committee Member may ask the medical practitioner or person to provide further information as to the patient's condition and risk factors.

(3) A medical practitioner or person may provide information under this section despite any other Act or law.

(4) This section does not apply to a medical condition or disease for which notification is otherwise provided under this Act.

Chief Magistrates Court may authorize disclosure of name and address

52. (1) The Executive Committee Member may apply to the Chief Magistrates Court, for an order authorising the service on a medical practitioner of a notice requiring disclosure of a name and address that would otherwise be protected by this Act from disclosure.

(2) An application under this section may be made in relation to a medical practitioner only if the Executive Committee Member has reasonable grounds for believing that—

- (a) the person whose name and address are sought is suffering from a Category 5 condition; and
- (b) identification of the person is necessary in order to safeguard the health of the public.

(3) An application to the Court under this section is to be heard and determined in the absence of the public but is to be otherwise heard and determined in accordance with the rules of the Court.

(4) The Court—

- (a) is to make an order applied for under this section if satisfied that there are reasonable grounds for making the order; or
- (b) is to dismiss the application if not so satisfied.

Executive Committee Member may direct persons to undergo medical examination

53. (1) This section applies if the Executive Committee Member—

- (a) suspects on reasonable grounds that a person may have a category 4 or 5 condition and may, on that account, be a risk to public health, and
- (b) considers that the nature of the suspected condition is such as to warrant medical examination.

(2) In these circumstances, the Executive Committee Member may, by notice in writing, direct the person concerned to undergo, within a specified period, a specified kind of medical examination and associated tests—

- (a) by a registered medical practitioner in general practice; or
- (b) by a registered medical practitioner practising in a specified field.

(3) If the person fails to comply with a direction under subsection (2), the Executive Committee Member may, by further notice in writing, direct the person to undergo the specified kind of medical examination and associated tests, at a specified time and place, by a specified registered medical practitioner.

(4) A person shall not, without reasonable excuse, fail to comply with a direction under subsection (3).

(5) A direction under subsection (2) or (3) shall have due regard to the sensitivities of the person concerned in relation to the gender, ethnicity and cultural background of the registered medical practitioner by whom the examination is to be carried out.

Authorized medical practitioner may make public health order

54. (1) An authorized medical practitioner may make a public health order in respect of a person if satisfied, on reasonable grounds, that the person—

- (a) has a category 4 or 5 condition, and

(b) because of the way the person behaves may, as a consequence of that condition, be a risk to public health.

(2) A public health order—

(a) shall be in writing;

(b) shall name the person subject to the order;

(c) shall state the grounds on which it is made; and

(d) shall state that, unless sooner revoked, it expires at the end of a specified period (not exceeding 28 days) after it is served on the person subject to the order.

(3) A public health order may require the person subject to the order to do any one or more of the following—

(a) to refrain from specified conduct;

(b) to undergo specified treatment;

(c) to undergo counselling by one or more specified persons or by one or more persons belonging to a specified class of persons;

(d) to submit to the supervision of one or more specified persons or of one or more persons belonging to a specified class of persons;

(e) to undergo specified treatment at a specified place.

(4) A public health order based on a category 4 condition, being an order that requires the person to undergo specified treatment at a specified place, may authorize the person subject to the order to be detained at that place while undergoing the treatment.

(5) A public health order based on a category 5 condition may authorize the person subject to the order to be detained at a specified place for the duration of the order.

(6) In deciding whether or not to make a public health order, the authorized medical practitioner shall take into account—

(a) the principle that any restriction on the liberty of a person should be imposed only if it is the most effective way to prevent any risk to public health, and

(b) any matters prescribed by the regulations for the purposes of this section.

(7) A public health order may include provisions ancillary to, or consequential on, the matters included in the order.

(8) A public health order does not take effect until it is served personally on the person subject to the order.

Duration of Public Health order

55. Unless sooner revoked, a public health order based on a Category 4 or 5 condition expires at the end of the period specified in the order.

Arrest of persons who contravene public health orders

56. (1) An authorized medical practitioner or the director public health may issue a certificate to the effect that a named person is contravening a public health order.

(2) A police officer of a rank of Inspector and above may apply for an arrest warrant in relation to the person named in a certificate issued under subsection (1).

(3) The authorized warrants officer may issue an arrest warrant in relation to the person so named if satisfied that there are reasonable grounds for doing so.

(4) A warrant under this section is sufficient authority for any police officer to arrest the named person and to bring the named person before a Chief Magistrates Court to be dealt with under section 33.

Arrest of escapee

57. (1) A public health detainee or person arrested under section 31 who escapes from the place where he or she is detained may be arrested at any time—

- (a) by the person for the time being in charge of that place;
- (b) by an authorized medical practitioner;
- (c) by a police officer; or
- (d) by any person assisting a person referred to in paragraphs (a)-(c).

(2) On being arrested, the escapee shall be returned to the place from which he or she has escaped.

Action following arrest or surrender

58. (1) If a person in respect of whom an authorized medical practitioner has issued a certificate for an alleged contravention of a public health order is brought or otherwise appears before the Chief Magistrates Court, the Court to conduct an inquiry into the allegation.

(2) Following its inquiry, the Court—

- (a) may confirm the order;
- (b) may vary the order and confirm it as varied; or
- (c) may caution the person and take no further action in the matter.

(3) The Courts' power to "vary" a public health order under this section is a power—

- (a) to omit a requirement from the order;
- (b) to include in the order a requirement that could have been included in the order when it was made, or
- (c) to substitute a requirement that could have been included in the order when it was made for any one or more of the requirements already included in the order.

(4) A person may be dealt with under this section for an alleged contravention of a public health order whether or not the person has been charged with an offence in relation to the same contravention.

Conditions applicable if person detained pursuant to public health order

59. (1) A public health detainee is to be detained in accordance with the conditions specified in the relevant public health order with respect to the person's security.

(2) Despite subsection (1), a public health detainee may, with the approval of an authorized medical practitioner, be permitted to leave the place of detention, but only under the constant personal supervision of a person, or one of a number of persons, nominated by the medical practitioner.

(3) A public health detainee who evades or attempts to evade any supervision to which he or she is subject under subsection (2) is taken to have failed to comply with a requirement of the relevant public health order.

Unlawful release from detention

60. (1) A person who, without lawful authority, releases, or attempts to release a public health detainee or a person arrested under this Act is guilty of an offence.

(2) It is a defence to proceedings for an offence under this section if the defendant satisfies the court that the defendant's action was not a risk to public health and that the defendant knew this to be so.

PART VIII—OTHER DISEASE CONTROL MEASURES AND NOTIFICATIONS

Medical Superintendent/CEO to notify Executive Committee Member of notifiable diseases

61. (1) A registered medical practitioner who suspects that a person receiving attention from the medical practitioner has a sexually transmitted infection shall, as soon as practicable, provide the person with such information concerning the infection as is prescribed by the regulations.

(2) A registered medical practitioner shall not, without reasonable excuse, fail to comply with this section.

(3) It is a defence to proceedings for an offence under this section if the defendant satisfies the court that he or she believed that the relevant information had previously been supplied to the patient by some other registered medical practitioner.

Duties of persons in relation to sexually transmitted infections

62. (1) A person who knows that he or she suffers from a sexually transmitted infection is guilty of an offence if he or she has sexual intercourse with another person unless, before the intercourse takes place, the other person—

- (a) has been informed of the risk of contracting a sexually transmitted infection from the person with whom intercourse is proposed, and
- (b) has voluntarily agreed to accept the risk.

(2) An owner or occupier of a building or place who knowingly permits another person to—

- (a) have sexual intercourse at the building or place for the purpose of prostitution; and
- (b) in doing so, commit an offence under subsection (1), is guilty of an offence.

(3) It is a defence to any proceedings for an offence under this section if the court is satisfied that the defendant took reasonable

precautions to prevent the transmission of the sexually transmitted infection.

(4) For the purposes of this section, a person is not presumed incapable of having sexual intercourse by reason only of the person's age.

Health practitioners to make Medical Superintendent aware of notifiable diseases

63. A health practitioner who is providing professional care or treatment at a hospital and who suspects that—

- (a) a patient at the hospital has a notifiable disease; or
- (b) a former patient has had a notifiable disease while a patient at the hospital, has a duty, and is authorized, to ensure that the chief executive officer of the hospital is made aware of that fact.

Medical Superintendent to notify Executive Committee Member of notifiable diseases

64. (1) If the chief executive officer of a hospital suspects that—

- (a) a patient at the hospital has a notifiable disease; or
- (b) a former patient has had a notifiable disease while a patient at the hospital, the chief executive officer shall, as soon as practicable, provide the Executive Committee Member with such information as may be prescribed by the regulations in relation to the patient or former patient.

(2) The chief executive officer of the hospital shall provide the Executive Committee Member with such additional information as the Executive Committee Member may request in a particular case.

(3) It is a defence to proceedings for an offence under this section if the chief executive officer satisfies the court that he or she believed that the relevant information had previously been provided to the Executive Committee Member.

Responsibilities of heads of primary schools with respect to immunisation

65. (1) When a child is enrolled at a primary school, and on such other occasions as may be prescribed by the regulations, the head of the school shall ask a parent of the child to lodge with the head an immunisation certificate for the child, unless satisfied that the certificate can be obtained under subsection (2).

(2) If a child's immunisation certificate has been lodged with the head and the child subsequently becomes enrolled at another primary school, the headmaster shall, on being asked to do so by a parent of the child or the headmaster of the other school, forward the certificate to the head of the other school.

(3) The headmaster of a primary school shall record in the approved form the immunisation status of each child enrolled at the school, as indicated by the child's immunisation certificate, and, for that purpose, a child for whom no immunisation certificate has been lodged is taken not to have been immunised against any of the vaccine preventable diseases.

(4) The headmaster of a primary school shall retain an immunisation certificate lodged with the principal in safe custody for such period as may be prescribed by the regulations and shall produce it for inspection on request by the public health officer.

Responsibilities of heads of child care facilities with respect to immunization

66. (1) When a child is enrolled at a child care facility, and on such subsequent occasions as may be prescribed by the regulations, the headmaster of the facility shall ask a parent of the child to produce to the principal evidence in the approved form as to the child's immunisation status, unless satisfied that such evidence can be obtained under subsection (2).

(2) If the headmaster of a child care facility has recorded the immunisation status of the child and the child subsequently becomes enrolled at another child care facility, the principal shall, on being asked to do so by a parent of the child or the principal of the other child care facility, provide that other headmaster with a copy of the record relating to the immunisation status of the child.

(3) The head of a child care facility shall record in a register, kept in the approved form, the immunization status of each child enrolled at the facility, as indicated by the evidence produced to the head in respect of the child, and, for that purpose, a child for whom no such evidence is produced is taken not to have been immunized against any of the vaccine preventable diseases and as such shall immediately inform the Public Health Officer of such a case for appropriate attention.

(4) The head of a child care facility shall retain an entry in the register for such period as may be prescribed by the regulations and shall produce the register for inspection by the public health officer on or before 30th March every year.

(5) The Public Health Officer shall within 30 days of receipt of the register from the head of a child care facility prepare a summary and transmit a report to the Director of Public Health.

Responsibilities of heads of institutions during outbreaks of vaccine preventable diseases

67. (1) On becoming aware that a child enrolled at a primary school or child care facility has a vaccine preventable disease, the headmaster of the school or facility shall inform the public county health officer.

(2) On being informed that a child has a vaccine preventable disease, the county public health officer may direct the head of the primary school or child care facility to do either or both of the following, both in respect of the child that has the disease and any other child enrolled at the school or facility who is a child at risk—

- (a) to give to a parent of each such child a notice to the effect that, unless specified requirements are complied with in respect of the child within a specified period, the child is not to attend the school or facility for the duration of the outbreak of the disease;
- (b) to take other specified action with respect to each such child.

(3) In giving any such direction, the county public health officer shall not fail to comply with any requirements prescribed by the regulations for the purposes of this section.

(4) On receiving any such direction, the headmaster of the primary school or child care facility shall not, without reasonable excuse, fail to comply with the direction.

(5) A headmaster who has given a notice referred to in subsection (2) (a) in respect of a child shall ensure that the child is excluded from the primary school or child care facility concerned for the duration of the outbreak of the disease unless the requirements specified in the notice have been duly complied with.

(6) Subsections (1) and (2) do not apply while the primary school or child care facility is closed for a public holiday or vacation, unless the school or facility would reopen before the end of the duration of the outbreak of the disease.

(7) For the purposes of this section, the duration of an outbreak of a vaccine preventable disease is to be as determined by the sub-county public health officer.

(8) Except as provided by this section, a member of the staff of a primary school or child care facility shall not subject a child who attends or seeks to attend the school or facility to any detriment because of the child's immunisation status.

PART IX—INFECTION CONTROL FOR HEALTH CARE FACILITIES

Obligations to minimise risks

68. Persons involved in the provision of a health service must take reasonable precautions and care to minimise the risk of infection to other persons.

Infection control management plans

69. (1) The operator of a health care facility must develop and implement an infection control management plan—

- (a) for a health care facility operating at the commencement—within 6 months of the commencement; or
- (b) for a health care facility that starts operation after the commencement—before the facility provides a health service.

(2) An infection control management plan, for a health care facility, is a documented plan to prevent or minimise the risk of infection, in relation to a health service, for—

- (a) persons receiving services at the facility;
- (b) persons employed or engaged at the facility; and
- (c) other persons at risk of infection at the facility.

Infection control management plan

70. (1) An infection control management plan for a health care facility must state—

- (a) the infection risks associated with the provision of health services provided at the facility;
- (b) the measures to be taken to prevent or minimise the infection risks for health services;
- (c) how the operator is to monitor and review the implementation and effectiveness of the measures;

- (d) details about the provision of training in relation to the infection control management plan for persons employed or otherwise engaged at the facility;
- (e) how often the infection control management plan is to be reviewed; and
- (f) if a person other than the operator of the facility is also responsible for providing advice about, and monitoring the effectiveness of, the infection control management plan—the name of that person.

(2) A regulation may prescribe matters to be included in an infection control management plan, including the measures under subsection (1)(b) that are to be included in an infection control management plan.

(3) The infection control management plan must be written in a way likely to be easily understood by persons employed or otherwise engaged at the facility.

(4) The operator of the facility must—

- (a) sign and date the infection control management plan; and
- (b) sign and date the infection control management plan each time it is reviewed.

(5) The operator must keep a copy of the infection control management plan at a place at the facility that is readily accessible to persons employed or otherwise engaged at the facility.

(6) If, after developing an infection control management plan for a health care facility, the operator of the facility intends to provide a health service not identified in the infection control management plan, the operator must, before providing the service, review and amend the infection control management plan to address the infection risks associated with the service.

PART X—PUBLIC HEALTH REGISTERS

Registers that may be established

71. (1) A public health or disease register may be established and maintained under this Part for any of the following purposes—

- (a) to facilitate the care, treatment and the follow up of persons who have diseases or have been exposed to diseases;
- (b) to facilitate the identification of sources of infection and the control of outbreaks of diseases;

- (c) to facilitate the identification and monitoring of risk factors for diseases or conditions that have a substantial adverse impact on the population;
- (d) to facilitate the measurement and monitoring of outcomes of specified population health interventions;
- (e) to facilitate the identification and monitoring of exposure to chemicals or other environmental factors that impact, or may impact, adversely on the health of individuals.

(2) The Executive Committee Member may, by order published in the County Gazette, specify public health or disease registers, or classes of public health or disease registers, that may be established and maintained under this Act.

(3) The order may specify the following—

- (a) the information that a specified register may contain;
- (b) the particular objects or purposes of a specified register.

Public health and disease registers

72. (1) The Executive Committee Member may establish and maintain, or arrange for the establishment and maintenance of, a register of a kind specified by an order under this Act.

(2) The Executive Committee Member may enter into an agreement or arrangement with any other person for the establishment or maintenance, or both, of any such register.

(3) The Executive Committee Member may enter into an agreement or arrangement with the national government or non-government agency, or any other person, for the provision and use of information for the purposes of any such register.

(4) A public health organisation shall, if directed to do so in writing by the Executive Committee Member, provide information for the purposes of any such register.

(5) A register shall not contain identifying particulars of a person, except with the consent of the person.

(6) The Executive Committee Member or a person authorized in writing by the Executive Committee Member for that purpose may provide personal information about a person to a health records linkage organisation for the purpose of establishing and providing a unique number to be used for the purposes of a register.

PART XI—RABIES PREVENTION AND CONTROL**Licensing Provisions**

73. (1) Except as may otherwise be provided by law, all owners or keepers of dogs over six (6) months of age within the County must obtain from the County government, between January 1st and June 30th of each year, an annual dog license to as required by law.

(2) The owner or keeper of a dog licensed pursuant to this section shall cause the dog to wear around its neck a collar to which shall be securely attached a tag issued by the executive committee member of health, and if any such tag shall be lost, the owner/keeper of such dog shall forthwith secure a substitute tag from the executive committee member of health.

(3) Any person found violating the licensing provision of this section shall be guilty of an offence.

Control Provisions (Leash Law)

74. (1) It shall be unlawful for any owner or keeper of a dog or dogs to allow such dog (s) to be outside the property of the owner or keeper unless such dog (s) is securely restrained with a collar and leash and under the direct control and supervision of the owner/keeper or his or her duly authorized agent with the following exceptions—

- (a) unleashed dogs may be on the premise of another person with the knowledge and permission of such other person.
- (b) the leash law requirement shall not apply to those persons that are training or using hunting dogs provided that said dog (s) are under voice control and under the direct supervision of the owner / keeper or duly authorized agent while being used for this purpose.

(2) Any person found who contravenes the provisions of this section shall be guilty of an offence.

Regulations Enforcement Provisions

75. (1) An owner of a dog is guilty of an offence if such a dog—

- (a) attacks any person;
- (b) threatens any person;
- (c) attacks, injures or kills livestock, poultry or pets, belonging to other persons.

(2) If a dog defecates on any private property or public property area other than the property of its owner, the dog owner shall cause such defecation to be removed immediately and an owner who fails to cause such defecation to be removed immediately is guilty of an offence.

Vicious Dog Provisions

76. (1) An authorized officer may deem a dog vicious if—

- (a) any dog has a known tendency or disposition to attack, without provocation, other domestic animals or humans; or
- (b) any dog has inflicted a serious wound upon another domestic animal or human without provocation;

(2) If an authorized officer determines on reasonable grounds that a dog is a vicious dog, either through personal observation or on the basis of facts determined by an investigation initiated by a complainant, he may—

- (a) give the owner a written notice that the dog has been determined to be a vicious dog;
- (b) require the owner to keep such dog with the provisions of this part of this laws upon the owner's receipt of this notice; and
- (c) inform the owner that if the vicious dog is not kept in accordance with part of this Regulations, the owner will be fined or subject to enforcement action pursuant to this Regulations.

(3) An authorized officer may at his discretion, require the owner of a vicious dog to post a sign at the entrance of his property stating "VICIOUS DOG" or "MBWA KALI".

Controlled Confinement, Rabies or Quarantine Provisions

77. (1) A person who has received a serious wound and the owner of the dog who has inflicted the serious wound, shall promptly report the case to the public health officer who may thereupon place the dog under controlled confinement and the dog shall not be released from such controlled confinement except by written permission of a licensed veterinarian.

(2) At the discretion of the public health officer such controlled confinement may be the premises of the owner or a licensed veterinarian within the County.

(3) In the event of an outbreak or threatened outbreak of rabies or any disease affecting dogs which may be transmitted to human beings, the County may by resolution, order and direct that all dogs shall be securely

tied up on their "Owners" property or shall be otherwise effectively confined and prevented from leaving such "Owners" property.

(4) when a dog under quarantine has been diagnosed as rabid, or suspected by a licensed veterinarian as being rabid, and dies while under such observation, the veterinary officer may immediately arrange to have the head of such a dog removed and sent to the appropriate laboratory for a pathological examination and may provide the public health officer with the name of the owner and his/her contact, the particulars of the suspect dog, and any other information required by the public health officer.

(5) Except as herein provided, no person shall kill, or cause to be killed, any rabid dog, or any dog suspected of having been exposed to rabies, or any dog which has bitten a human without immediately thereafter notifying the Public health officer; nor remove any such dog from the county limits without written permission from the Public health officer.

(6) Any owner or keeper of a dog in the County, six (6) months of age or older, shall cause such dog to be vaccinated against rabies by a licensed Veterinarian who shall issue a rabies tag and shall be affixed to the collar of said dog. Any owner/keeper of the dog shall present certification of rabies vaccination upon demand by a public health officer, police officer, or any other authorized officials of the County.

(7) Any violation of the provisions of this section shall be guilty of an offence.

PART XII—REGULATION OF SMOKING IN PUBLIC AND WORK PLACES

Smoking restrictions

78. Smoking shall not be permitted and no person shall smoke in the following indoor areas—

- (a) places of employment;
- (b) bars;
- (c) food service establishments;
- (d) enclosed indoor areas open to the public containing a swimming pool;
- (e) public means of mass transportation occupied by passengers such as buses, vans, taxicabs and limousines;

- (f) Ticketing, boarding and waiting areas in public transportation terminals;
- (g) youth centers and facilities;
- (h) any facility that provides child care services;
- (i) all public and private colleges, universities and other vocational institutions, including dormitories, residence halls, and other group residential facilities that are owned or operated by such colleges, universities and other educational and vocational institutions, except that these restrictions shall not apply in any off-campus residential unit occupied by a person who is not enrolled as an undergraduate student in such college, university or other educational institution;
- (j) general hospitals and residential health care facilities;
- (k) commercial establishments used for the purpose of carrying on or exercising any trade, profession, vocation or charitable activity.

Prohibition of smoking

79. Smoking shall not be permitted and no person shall smoke within one hundred feet of the entrances, exits or outdoor areas of any public or private nursery, primary or secondary schools.

Posting of signs

80. "Smoking" or "No Smoking" signs, or the international "No Smoking" symbol, which consists of a pictorial representation of a burning cigarette enclosed in a circle with a bar across it, shall be prominently posted and properly maintained where smoking is regulated by this article, by the owner, operator, manager or other person having control of such area.

Smoking notice

81. The owner, operator or manager of a hotel or motel that chooses to develop and implement a smoking policy for rooms rented to guests shall post a notice at the reception area of the establishment as to the availability, upon request, of rooms in which no smoking is allowed.

Offence

82. Any violation of the provisions of this part shall be guilty of an offence.

Specially designated smoking areas

83. (1) The Directorate of public health and sanitation in consultation with CEC and other County Government agencies shall develop and provide specially designated smoking areas within such place where smoking is prohibited:

Provide that any specially designated smoking areas provided pursuant to this subsection shall meet the requirements of subsection (2).

- (2) A specially designated smoking area shall be—
- (a) ventilated in such manner as to ensure that air from the area is directly exhausted to the outside and does not recirculate or drift to other areas within the public facility;
 - (b) separate, enclosed and sealed from the floor to the roof with a door;
 - (c) in a place where non-smoking individuals do not have to enter the area for any purpose while smoking is occurring; and
 - (d) cleaned or maintained only when smoking is not occurring in the area.

PART XIII—GENERAL NUISANCES**What constitutes nuisance?**

84. (1) The following shall be deemed to be nuisances liable to be dealt with in the manner provided in this Part—

- (a) any vessel, and any railway carriage or other conveyance, in such a state or condition as to be injurious or dangerous to health;
- (b) any dwelling or premises or part thereof which is or are of such construction or in such a state or so situated or so dirty or so verminous as to be, in the opinion of the public health officer;
- (c) dangerous to health, or which is or are liable to favour the spread of any infectious disease;
- (d) any street, road or any part thereof, any stream, pool, ditch, gutter, watercourse, sink, water-tank, cistern, watercloset, earthcloset, privy, urinal, cesspool, soakaway pit, septic tank, cesspit, soil pipe, waste pipe, drain, sewer, garbage receptacle, dustbin, dung pit, refuse pit, slop tank, ash pit or manure heap so foul or in such a state or so situated or constructed as in the

opinion of the public health officer to be offensive or to be injurious or dangerous to health;

- (e) any well or other source of water supply or any cistern or other receptacle for water, whether public or private, the water from which is used or is likely to be used by man for drinking or domestic purposes or in connection with any dairy or milkshop, or in connection with the manufacture or preparation of any article of food intended for human consumption, which is in the opinion of the public health officer polluted or otherwise liable to render any such water injurious or dangerous to health;
- (f) any noxious matter, or waste water, flowing or discharged from any premises, wherever situated, into any public street, or into the gutter or side channel of any street, or into any nullah or watercourse, irrigation channel or bed thereof not approved for the reception of such discharge;
- (g) any stable, cow shed or other building or premises used for keeping of animals or birds which is so constructed, situated, used or kept as to be offensive or which is injurious or dangerous to health;
- (h) any animal so kept as to be a nuisance or injurious to health;
- (i) any accumulation or deposit of refuse, offal, manure or other matter whatsoever which is offensive or which is injurious or dangerous to health;
- (j) any accumulation of stones, timber or other material if such in the opinion of the public health officer is likely to harbour rats or other vermin;
- (k) any premises in such a state or condition and any building so constructed as to be likely to harbour rats;
- (l) any dwelling or premises which is so overcrowded as to be injurious or dangerous to the health of the inmates, or is defective in lighting or ventilation, or is not provided with or is so situated that it cannot be provided with sanitary accommodation to the satisfaction of the public health officer;
- (m) any public or other building which is so situated, constructed, used or kept as to be unsafe, or injurious or dangerous to health;

- (n) any occupied dwelling for which such a proper, sufficient and wholesome water supply is not available within a reasonable distance as under the circumstances it is possible to obtain;
- (o) any factory or trade premises not kept in a cleanly state and free from offensive smell arising from any drain, privy, watercloset, earthcloset or urinal, or not ventilated so as to destroy or render harmless and inoffensive as far as practicable any gases, vapours, dust or other impurities generated, or so overcrowded or so badly lighted or ventilated as to be injurious or dangerous to the health of those employed therein;
- (p) any factory or trade premises causing or giving rise to smells or effluvia which are offensive or which are injurious or dangerous to health;
- (q) any area of land kept or permitted to remain in such a state as to be offensive, or liable to cause any infectious (communicable or preventable disease or injury or danger to health;
- (r) any chimney sending forth smoke in such quantity or in such manner as to be offensive or injurious or dangerous to health;
- (s) any cemetery, burial-place or place of sepulture situated or so crowded or otherwise so conducts as to be offensive or injurious or dangerous to health;
- (t) any act of open defaecation, spitting or open urination in a public area or an area not designated for the purpose; and
- (u) any act, omission or thing which is, or may be dangerous to life, or injurious to health.

(2) The author of a nuisance means the person by whose act default or sufferance nuisance is caused, exists or is contained, whether he is the owner or occupier or both owned and occupier or any other person.

(3). Any person shall cause a nuisance or shall suffer to exist on any land or premises owned or occupied by him or of which he is in charge any nuisance or other condition liable to be injurious or dangerous to health.

Nuisances Prohibited to be investigated

85. The local public health officer, upon receiving a complaint of the existence within his jurisdiction of a nuisance which may affect health, or when the probable existence of any such nuisance comes to his attention, shall make or cause to be made by his duly authorized representative an

immediate and thorough investigation, and if, in his opinion, such a nuisance exists, he shall take steps to secure its voluntary abatement.

County Administration to maintain cleanliness and prevent nuisances

86. It shall be the duty of the county administration to take all lawful, necessary and reasonably practicable measures for maintaining its jurisdiction at all times in clean and sanitary condition, and for preventing the occurrence therein of, or for remedying or causing to be remedied, any nuisance or condition liable to be injurious or dangerous to health, and to take proceedings at law against any person causing or responsible for the continuance of any such nuisance or condition.

Health authorities to prevent or remedy danger to health from unsuitable dwellings

87. It shall be the duty of every public health officer to take all lawful, necessary and reasonably practicable measures for preventing or causing to be prevented or remedied all conditions liable to be injurious or dangerous to health arising from the erection or occupation of unhealthy dwellings or premises, or the erection of dwellings or premises on unhealthy sites or on sites of insufficient extent, or from overcrowding, or from the construction, condition or manner of use of any factory or trade premises, and to take proceedings against any person causing or responsible for the continuance of any such condition.

Notice to remove nuisance

88. The public health officer, if satisfied of the existence of a nuisance, shall serve a notice on the author of the nuisance or if he cannot be found, on the occupier or owner of the dwelling or premises on which the nuisance and or continues, requiring him to remove it within the time specified in the notice, and to execute such work and do such things as may be necessary for that purpose, and, if the public health officer think it desirable (but not otherwise) specifying any work to be executed to prevent a recurrence of the said nuisance—

Provided that—

- (a) where the nuisance arises from any want or defect a structural where the dwelling premises are unoccupied, the notice shall be served on the owner;
- (b) where the author of the nuisance cannot be found it is clear that the nuisance does not arise or continue by the act or default or sufferance of the occupier owner of the dwelling or premises,

the public health officer shall remove the same and may do what is necessary to prevent the recurrence thereof.

Procedure if owner fails to comply with notice

89. (1) If the person on whom a notice to remove nuisance has been served as aforesaid fails to comply with is of the requirements thereof within the time specified the public health officer shall cause a complaint relating such nuisance to be made before a magistrate, and such magistrate shall thereupon issue a summons requiring person on whom the notice was served to appear before court.

(2) If the court is satisfied that the alleged nuisance ex the court shall make an order on the author thereof, or occupier or owner of the dwelling or premises, as the case may be requiring him to comply with all or any of the requirements of the notice or otherwise to remove the nuisance within a time specified in the order and to do any works necessary for that purpose.

(3) The court may by such order impose a fine not exceeding two hundred thousand shillings on the person on whom the order is and may also give directions as to the payment of all costs incurred up to the time of the hearing or making of the for the removal of the nuisance.

(4) If the court is satisfied that the nuisance, although removed since the service of the notice, was not removed within the time specified in such notice, the court may impose a fine not exceeding two hundred thousand shillings on the person on whom such notice was served, and may, in addition to or in substitution for such fine, order such person to pay all costs incurred up to the time of the hearing of the case.

(5) If the nuisance, although removed since the service of the notice, in the opinion of the public health officer is likely to recur on the same premises, the public health officer shall cause a complaint relating to such nuisance to be made before a magistrate, and the magistrate shall thereupon issue a summons requiring the person on whom the notice was served to appear before him.

(6) If the court is satisfied that the alleged nuisance, although removed, is likely to recur on the same premises, the court shall make an order on the author thereof or the occupier or owner of the dwelling or premises, as the case may be, requiring him to do any specified work prevent the recurrence of the nuisance and prohibiting its recurrence.

(7) In the event of the person on whom such order as is specified in subsections (5) and (6) not complying with the order within a reasonable

time, the public health officer shall again cause a complaint to be made to a magistrate, who shall thereupon issue a summons requiring such person to appear before him, and on proof that the order has not been complied with may impose a fine not exceeding two hundred thousand shillings, and may also give directions as to the payment of all costs up to the time of the hearing.

(8) Before making any order, the court may, if it thinks fit, adjourn the hearing or further hearing of the summons until an inspection, investigation or analysis in respect of the nuisance alleged has been made by some competent person.

(9) Where the nuisance proved to exist is such as render a dwelling unfit, in the judgment of the court, human habitation, the court may issue a closing order prohibiting the use thereof as a dwelling until in its judgment dwelling is fit for that purpose; and may further order that rent shall be due or payable by or on behalf of the occupier of that dwelling in respect of the period in which the closing order exists; and on the court being satisfied that it has been rendered fit for use as a dwelling the court may terminate closing order and by a further order declare the dwell habitable, and from the date thereof such dwelling may be or inhabited.

(10) Notwithstanding a closing order, further proceed may be taken in accordance with this section in respect of same dwelling in the event of any nuisance occurring or of dwelling being again found to be unfit for human habitation.

PART VOLUNTEER HEALTH SERVICES

Volunteer Health Advisory Committee

90. (1) There shall be established the Volunteer Health Advisory Committee.

(2) The Committee shall be composed of—

- (a) 11 voting members with 6 members being community health volunteers or members of community health committees, representing interest groups and geographic areas; one member shall be a representative of the community colleges, universities, and educational institutions that may provide community health volunteer training;
- (b) the remaining positions shall be filled with 4 individual representatives appointed from the following categories, with no fewer than 3 categories being represented:

health care or public health professionals, who are not community health volunteers, with community health and supervision experience, such as nurses and public health officers;

- (i) training or curriculum specialists;
 - (ii) representatives or program administrators, excluding management; and
 - (iii) health policy advisors, with experience in health care workforce policy.;
- (c) Representatives appointed from the following categories, with at least 3 categories being represented—
- (i) health services
 - (ii) agriculture, livestock and fisheries;
 - (iii) education, social services, culture and youth;
 - (iv) administration;

(3) The executive committee member shall designate a chairperson from the voting members of the Committee. The Committee shall consult with additional experts as needed.

(4) Members of the Committee shall serve without compensation, but may be reimbursed for reasonable expenses incurred as a result of their duties as members of the Committee from funds set aside by the executive committee member for that purpose.

(5) The executive committee member shall provide administrative and staff support to the Committee.

Duties of the Committee

91. (1) It shall be the duty of the Committee to ensure a coordinated, efficient, effective and consultative approach in delivery of voluntary health services.

(2) To achieve the objectives set out under subsection (1), the Committee shall—

- (a) formulate policies relating to the management of Volunteer Health Services;
- (b) oversee the development of the Community Health Plans by respective community health units;

- (c) monitor, evaluate and review implementation of Community Health Plans; mobilize resources for purposes of efficient management of Volunteer Health Services;
- (e) advise the Executive Committee Member on matters of general policy; and
- (f) perform any other functions assigned to it under this Act.

Establishment of the Community Health Unit

92. (1) The Community Health Unit shall comprise the villages of Elgeyo/Marakwet County with each Community Health Unit comprising of at most 15 villages established as per the fifth schedule of this Act.

(2) The executive committee member shall by notice in the Gazette, establish, for each community health unit, a community health committee comprising—

- (a) 6 members democratically appointed or elected by the community members representing the youth, persons with disability and other marginalized groups in the community;
- (b) The community health extension worker who shall act as the technical adviser and secretary;
- (c) The chairperson who shall be elected from the community;
- (d) a representative selected from the community health volunteers and will be the treasurer;
- (e) The committee membership shall not have more than two thirds of one gender represented.

(3) Members of the community health committee shall not receive any honoraria or other remuneration for their activities as members.

(4) Subject to the Act and to any more restrictive policy adopted by County Public Service Board, the members of the committee may be reimbursed for the reasonable expenses necessarily incurred by them in the performance of their duties.

Administration of the Community Health Unit

93. Each of the community health units shall be administered by a community health extension worker as appointed by the executive committee member in consultation with the Sub-County health management team.

Sittings of the Community health committee

94. (1) A Community health committee shall hold their sittings at such places within the community health unit as shall be determined by the chairman. The sittings of the community health committee shall be open and easily accessible to the public unless owing to the nature of the matter and for the reasons to be recorded, it has become necessary to exclude the public.

(3) Community health committees shall, at the beginning of every month prepare schedules of their sittings specifying the time and the venues and publicize the same through the notices, posters and any other media that shall be accessible to the public at least three days prior to the first sitting of each month.

(4) The decisions of a community health committee shall be by consensus and where a vote becomes necessary, by a simple majority.

(5) The proceedings of the community health committee shall be recorded in writing and may be electronically recorded as well.

(6) The community health committee shall conduct at least two public forums in the community health unit in each year for the purpose of providing information on the operations and activities of the community health committee and seeking input from the public.

Responsibilities of the Community Health Committee

95. (1) A community health committee shall be responsible for—

- (a) fostering community development that encourages the public to actively participate in health planning and service delivery;
- (b) constructing a community health profile that identifies the deficiencies and strengths of the community with respect to factors that affect health, including income and social status;
social support networks, education, employment, physical environments, inherited factors, personal health practices and coping skills, child development and health services in the community;
- (c) preparing and maintaining an inventory of community-based health services delivered in the community;
- (d) assessing community health needs and community-based health services in relation to those needs;

- (e) providing such other advice and assistance that the community health extension worker requests;
- (f) managing, or assist in the management of, community health grants on behalf of the executive committee member, or with the approval of the executive committee member; and performing such other functions as the executive committee member may authorize pursuant to this Act.

(2) The executive committee member shall provide a community health committee with administrative support services and technical health-planning support services.

Financing of community health units

96. (1) The executive committee member shall establish a community health unit grant program and may make grants to eligible community health units subject to appropriations for that purpose. The grants shall be for the purpose of—

- (a) establishing new community health units to provide community based health services.
- (b) support to existing community health units to expand provision of community based health services.

(2) Sustaining funds shall be available to grantees under section (1) that have met the initial proposed project objectives and can demonstrate continued financial need. The executive committee member shall adopt rules and criteria to allow grantees to apply for continued sustainability funding under this Section.

(3) A recipient of a grant under this Act may use the grant moneys to do any one or more of the following—

- (a) procure commodities and equipment for the community health volunteer kit;
- (b) provide incentives to community health volunteers;
- (c) support social networks providing community based health services;
- (d) acquire supportive services to facilitate provision of community based health services.

(4) The executive committee member shall ensure that each grant recipient meets the goals and objectives stated in the original grant proposal submitted by the recipient, that grant moneys are being used for

appropriate purposes, and that residents of the community are being served by the new community health units established with grant moneys.

(5) Grant recipients must submit a progress report to the executive committee member.

Opening of Bank Account

97. Each community health unit established pursuant to this Act and manage an account with a bank or credible financial institution and shall—

- (a) Keep accurate accounting records of all funds received and expenditures, and make them available to community members and other stakeholders upon request;
- (b) Have a treasurer, a chairperson and a secretary who shall be the signatories for the bank accounts;
- (c) Maintain receipts, labour registers, and other supporting documents for all expenses;
- (d) Provide quarterly reports to the community on the current financial and physical status of the projects/activities being implemented in the community through community forums/meetings, community dialogue days, Community health committee meetings, public notice boards, announcements during barazas or other agreed means;
- (e) Maintain a register of all cash, labour, and material contributions from the community, valued at local market rates;
- (f) Submit a quarterly activity and financial report to the executive committee member.

Duty to develop plan

98. (1) A community health committee shall develop a community health plan for each fiscal year, provide it to the executive committee member and support the implementation at the community level of those components of the community health plan.

- (2) The community health plan shall include—
 - (a) recommended priorities for the delivery of community-based health services;
 - (b) a demonstration that the recommended priorities have been established through community consultation;

- (c) provisions identifying and making recommendations for the elimination of any unnecessary duplication of community health services;
- (d) a list of the initiatives recommended by the community health committee for the improvement of the health of the community.
- (e) for the purpose of assisting the community health committee to make recommendations pursuant to clause (a), the executive committee member shall make available to the community such information that will assist the community health committee in financial feasibility of implementing the recommendations.

(3) The executive committee member shall ensure that community health plans are developed by community health committees and considered in the preparation of the health-services business plan.

Recruitment of Community Health Volunteers

99. (1) There shall be a community health volunteer or such a number of community health volunteers depending on the number of villages in a community health unit as determined by the executive committee member and competitively appointed by the community health committee established pursuant to this Act with concurrence of the members of the community residing within the community health unit.

(2) The executive committee member shall prescribe guidelines for the recruitment and management of community health volunteers.

Roles of Community Health Volunteers

100. (1) Obligations of Community Health Volunteers shall include but not limited to—

- (a) taking reasonable care for their own health and safety;
- (b) taking reasonable care that their conduct does not adversely affect the health and safety of others;
- (c) complying with any reasonable instruction that is given to by their supervisor;
- (d) cooperating with any reasonable health policy or procedure in place.

(2) Community Health Volunteers who do not comply with their obligations under this Act, can be prosecuted.

(3) The Community Health Volunteers shall perform roles as prescribed by the executive committee member.

Training of Community Health Volunteers

101. The executive committee member in consultation with the Volunteer Health Advisory Committee shall make necessary arrangements for the training and certification of Community Health Volunteers using an approved curriculum.

Compensation for Community Health Volunteers

102. A community health volunteer shall be paid such allowance or compensated for out of pocket expenses as shall be determined by the executive committee member in consultation with the Volunteer Health and the Elgeyo/Marakwet County Public Service Board.

Right of Entry

103. (1) A community health volunteer shall enter any household and any area within their jurisdiction at any time with or without prior notice and shall have access to the residents of a household at all times.

(2) A community health volunteer shall notify immediately the head of the household upon arrival and shall present appropriate identification.

(3) Residents shall have the right to request, deny or terminate visits with a community health volunteer.

Alteration of areas

104. (1) The executive committee member in consultation with the Volunteer Health Advisory Committee established pursuant to this Act, shall alter the boundaries of a community health unit if need arises.

(2) The executive committee member in consultation with the Volunteer Health Advisory Committee established pursuant to this Act, may by regulations, annex the whole or any part of a community health unit to another community health unit.

(3) The executive committee member may divide, amalgamate with another community health committee or reconstitute a community health committee established pursuant to this Act.

(4) Subject to the approval of the executive committee member, a community health extension worker may dissolve a community health committee if the community health extension worker considers it appropriate and two thirds of members who are present and voting at a special meeting held for the purpose of dissolving the community health committee vote in favour of the dissolution.

PART XV- MISCELANNEOUS PROVISIONS**Protection of patients from abuse**

105. (1) For the purposes of this section, the following words shall have the following meanings—

- (a) The term abuse shall mean inappropriate physical contact with a patient or resident of a residential health care facility, while such patient or resident is under the supervision of the facility, which harms or is likely to harm the patient or resident. Inappropriate physical contact includes, but is not limited to, striking, pinching, kicking, shoving, bumping and sexual molestation.
- (b) The term mistreatment shall mean inappropriate use of medications, inappropriate isolation or inappropriate use of physical or chemical restraints on or of a patient or resident of a residential health care facility, while such patient or resident is under the supervision of the facility.
- (c) The term neglect shall mean failure to provide timely, consistent, safe, adequate and appropriate services, treatment, and/or care to a patient or resident of a residential health care facility while such patient or resident is under the supervision of the facility, including but not limited to: nutrition, medication, therapies, sanitary clothing and surroundings, and activities of daily living.
- (d) The term reasonable cause shall mean that upon a review of the circumstances, there is sufficient evidence for a prudent person to believe that physical abuse, mistreatment, or neglect has occurred. Circumstances to be reviewed shall include, but not be limited to any of the following: a statement that physical abuse, mistreatment or neglect has occurred, the presence of a physical condition at variance with the history or course of treatment of the patient or resident, and the visual or aural observation of an act or condition of physical abuse, mistreatment or neglect.

(2) Any person may report, physical abuse, mistreatment or neglect in accordance with this Act.

(4) The Executive Committee Member shall prescribe procedures for reporting and investigation of abuse by patients.

(5) Any violation of this section may be punishable pursuant to provisions of this Act.

Provisions of Act in relation to other Acts

106. (1) Except as is specially provided in this Act, the provisions of this Act shall be deemed to be in addition to and not in substitution for any provisions of any other Act which are not in conflict or inconsistent with this Act.

(2) If the provisions of any earlier Act are in conflict or inconsistent with this Act, the provisions of this Act shall prevail.

Advertisement of health services

107. (1) The Director of Public Health shall ensure that no person shall advertise or otherwise promote the provisions of a health service in a manner that—

- (a) is false, misleading or deceptive;
- (b) is likely to mislead or deceive; or
- (c) creates, or is likely to create, an unjustified expectation of beneficial treatment.

General penalty

108. Where a person is convicted of an offence under this Act for which no penalty is expressly provided, the person shall be liable to a fine not exceeding one hundred thousand shillings or to imprisonment for a term not exceeding six months, or to both

Regulations

109. (1) The Executive Committee Member may make regulations, not inconsistent with this Act, for or with respect to any matter that by this Act is required or permitted to be prescribed, or that is necessary or convenient to be prescribed, for carrying out or giving effect to this Act.

(2) In particular, the regulations may make provision for or with respect to any of the following—

- (a) the provision and keeping of operation manuals, and maintenance manuals, for a regulated system;
- (b) the keeping of records, and the making of reports, in relation to a regulated system;
- (c) prescribe for operational policies and guidelines for management and administration of county health facilities;
- (d) regulating the management of solid waste including refuse removal, refuse dumps and enforcement of standards;

- (e) the provision of information by persons who carry out skin penetration procedures;
- (f) the registration of cremations and burials and (with any necessary modifications) the application to the registration of cremations of the provisions of any other Act, or of any law, in force in relation to the registration of a burial of the body of a deceased person;
- (g) the payment of specified fees in relation to applications made, approvals given, improvement notices and prohibition orders given, and other matters arising, under this Act;
- (h) respecting the approval of unserviced building lots in terms of lot size, square area, minimum area and respecting the conduct of tests for the accommodation of sewage disposal systems and prescribing the type and specification of sewage disposal systems adaptable to different building lots;
- (i) providing for the prevention of overcrowding of houses or buildings used for human occupation, hotel bedrooms, common lodging houses, and places of assembly, prescribing the maximum number of people that may be allowed in such a place, and the amount of air space to be allowed for each individual and providing for the prevention of insanitary conditions;
- (j) regulating the construction, maintenance, cleansing and disinfection of all drains, sewage systems and sewers and systems of sewage disposal, water closets, cesspools, privies and all similar structures or installations;
- (k) providing for the interment and disinterment of the dead, the transportation of the dead, the conduct of funerals of dead bodies, including those dead from specific diseases;
- (l) respecting the licensing, location, sanitary operation and maintenance of cemeteries and burial grounds;
- (m) respecting the licensing, location, construction, lighting, ventilation and sanitary operation of burial vaults and crematoria and the equipment used in them;
- (n) regulating the plumbing, heating, lighting, ventilation, sanitary equipment and condition of all colleges, schools, hotels, licensed or unlicensed, all lodging houses, boarding houses, stopping places, and every house or building or part of a building where

lodgings are furnished, with or without meals, for money or other consideration, and providing for the periodical inspection of all those places by an officer of the department;

- (o) preventing the pollution, defilement, discoloration or fouling of all lakes, rivers, streams, pools, springs and waters, so as to ensure their sanitary condition;
- (p) regulating the construction, location, licensing, equipping, maintenance, cleansing, disinfection, purifying, heating, lighting, ventilation, inspection, operation and use of swimming pools and bathing places;
- (q) providing for safety standards in the various uses of radioactive materials and of radioactive equipment;
- (r) respecting the inspection, licensing, location, construction, heating, lighting and ventilation, water supply, sewage disposal, garbage disposal, closing, safety and sanitary operation and maintenance of hairdressing establishments, including barbers' shops and beauty salons;
- (s) regulating the operation of places where forms of therapy, baths and massage treatments are given and providing for their inspection, supervision and control towards the end that they shall be kept in a sanitary condition and operated in a manner consistent with the safety of the health of the public;
- (t) providing for instruction in public health and the conduct of public health activities in schools and requiring principals and teachers of schools to report to the officer of the department that may be designated in the regulations on a matter relating to public health;
- (u) regulating in respect of and for the purpose of securing health in industrial and commercial establishments—
 - (i) the supplying of drinking water;
 - (ii) the preparation, service, sale and consumption of food on the premises;
 - (iii) lighting;
 - (iv) the distance to be left between those establishments and dwelling houses;
 - (v) the arrangements and details of the construction of rooms;

- (vi) cubic space to be provided in relation to the number of persons employed, aeration and ventilation;
- (vii) cleanliness and cleansing;
- (viii) the removal and manner of disposal of dust, gas, vapour and waste produced in the course of work;
- (ix) the system of drainage, including sinks, lavatories, urinals, privies and closets and the method of disposing of waste liquids;
- (x) the temperature of the premises;
- (xi) other conditions that may arise, whether of the kinds referred to in subparagraphs (i) to (xi) or not;
- (xii) the control and use of noxious chemicals or materials in industry or other processes;
- (xiii) the enforcement, where considered necessary by the Executive Committee Member or other person in the department that the Executive Committee Member may designate, of routine medical or laboratory examination of workers in occupations in which exposure to dust, fumes, gas or noxious chemicals may occur;
- (xiv) the inspection of industrial or commercial establishments, workshops, factories, mines or other places of employment for the purpose of investigating potential or apparent health hazards and advising on and enforcing the means of their prevention, and the appointment where necessary of public health officers or inspectors to carry out the duties referred to in subparagraph (xvi);
- (xv) providing for the medical supervision of persons employed in a factory, mine, workshop or industrial establishment, and prohibiting, limiting and controlling the use of noxious materials or process on the premises, where the executive committee member is of the opinion that there may be risk of injury by accident or disease to the health of persons employed there; and
- (xvi) generally, to give effect to the purpose of this Act.

(3) Regulations may be made under this section to apply to the whole of the county or may be restricted in their application to specified establishments in or specified areas of the county.

(4) Where regulations may be made under subsection (2) with respect to licensing, the regulations may prescribe the form of licences and the fees to be paid for licences, stipulate the conditions under which licences may be issued, suspended or cancelled or withheld from issuance and by whom, and prohibiting a person, premises or operation covered by the regulations from acting, being used or being conducted without the appropriate licence.

(5) Where regulations made under subsection (2) or orders made under those regulations conflict with regulations or orders made under the Public Health Act Cap 242, the regulations and orders made under this subsection shall prevail.

SCHEDULE 1—SCHEDULED MEDICAL CONDITIONS

“birth” means the birth of a child who has breathed after delivery.

“delivery”, in relation to a child or still-born child, means the complete expulsion or extraction of the child or still-born child from the mother.

“perinatal death” means:

- (a) the death of a child on the day of his or her birth or within the next succeeding 28 days, or
- (b) a still-birth.

“still-birth” means the birth of a child that exhibits no sign of respiration or heartbeat, or other sign of life, after delivery and that—

- (a) is of at least 20 weeks' gestation, or
- (b) if it cannot be reliably established whether the period of gestation is more or less than 20 weeks, has a body mass of at least 400vgrams at birth.

CATEGORY 1 —BIRTH

Congenital malformation (as described in the *International Statistical Classification of Diseases and Related Health Problems*) in a child under the age of one year—

- (a) Cystic fibrosis in a child under the age of one year.
- (b) Hypothyroidism in a child under the age of one year.
- (c) Perinatal death.
- (d) Phenylketonuria in a child under the age of one year.

Pregnancy with a child having a congenital malformation (as described in the *International Statistical Classification of Diseases and Related Health Problems*), cystic fibrosis, hypothyroidism, thalassaemia major or phenylketonuria—

- (a) Sudden Infant Death Syndrome; and
- (b) Thalassaemia major in a child under the age of one year.

CATEGORY 2

- (a) Acute viral hepatitis;
- (b) Adverse event following immunisation;
- (c) Avian influenza in humans;
- (d) Creutzfeldt-Jakob disease (CJD) and variant Creutzfeldt-Jakob disease (vCJD) ;
- (e) Foodborne illness in two or more related cases;
- (f) Gastroenteritis among people of any age in an institution (for example, among persons in educational or residential institutions);
- (g) Leprosy;
- (h) Measles;
- (i) Middle East respiratory syndrome coronavirus;
- (j) Pertussis (whooping cough);
- (k) Severe Acute Respiratory Syndrome;
- (l) Smallpox;
- (m) Syphilis; and
- (n) Tuberculosis.

CATEGORY 3

- (a) Anthrax;
- (b) Arboviral infections;
- (c) Avian influenza in humans;
- (d) Botulism;
- (e) Brucellosis;
- (f) Chancroid;

- (g) Chlamydia; and
- (h) Cholera.

Congenital malformation (as described in the *International Statistical Classification of Diseases and Related Health Problems*)

Creutzfeldt-Jakob disease (CJD) and variant Creutzfeldt-Jakob disease (vCJD)

- (a) Cryptosporidiosis;
- (b) Cystic fibrosis;
- (c) Diphtheria;
- (d) Donovanosis;
- (e) Giardiasis;
- (f) Gonorrhoea;
- (g) Haemophilus influenzae type b;
- (h) Hendra virus infection;
- (i) Hepatitis A;
- (j) Hepatitis B;
- (k) Hepatitis C;
- (l) Hepatitis D (delta) ;
- (m) Hepatitis E;
- (n) Human Immunodeficiency Virus (HIV) infection;
- (o) Hypothyroidism in a child under the age of one year;
- (p) Influenza; and
- (q) Invasive pneumococcal infection.

Lead poisoning (as defined by a blood lead level of or above 10 $\hat{\text{A}}\mu\text{g/dL}$)—

- (a) Legionella infections;
- (b) Leptospirosis;
- (c) Listeriosis;
- (d) Lymphogranuloma venereum;
- (e) Lyssavirus;

- (f) Malaria;
- (g) Measles;
- (h) Meningococcal infections;
- (i) Middle East respiratory syndrome coronavirus;
- (j) Mumps;
- (k) Paratyphoid;
- (l) Pertussis (whooping cough);
- (m) Phenylketonuria;
- (n) Plague; and
- (o) Poliomyelitis.

Pregnancy with a child having a congenital malformation (as described in the *International Statistical Classification of Diseases and Related Health Problems*), cystic fibrosis, hypothyroidism, thalassaemia major or phenylketonuria—

- (a) Psittacosis;
- (b) Q fever;
- (c) Rabies;
- (d) Rotavirus;
- (e) Rubella;
- (f) Salmonella infections;
- (g) Severe Acute Respiratory Syndrome;
- (h) Shiga toxin-producing and Vero toxin-producing *Escherichia coli* infection (STEC/VTEC) ;
- (i) Shigellosis;
- (j) Smallpox;
- (k) Syphilis;
- (l) Thalassaemia major;
- (m) Tuberculosis;
- (n) Tularaemia; ;
- (o) Tungiasis;

- (p) Typhoid;
- (q) Typhus (epidemic);
- (r) haemorrhagic fevers; and
- (s) Yellow fever.

CATEGORY 4

- (a) Avian influenza in humans;
- (b) Middle East respiratory syndrome coronavirus;
- (c) Severe Acute Respiratory Syndrome;
- (d) Tuberculosis; and
- (e) Typhoid.

CATEGORY 5

1. Acquired Immune Deficiency Syndrome (AIDS) ; and
2. Human Immunodeficiency Virus (HIV) infection.

SCHEDULE 2 NOTIFIABLE DISEASES

- (a) Acquired Immune Deficiency Syndrome (AIDS) ;
- (b) Acute viral hepatitis;
- (c) Adverse event following immunisation;
- (d) Avian influenza in humans;
- (e) Botulism; ;
- (f) Cancer; and
- (g) Cholera.

Congenital malformation (as described in the *International Statistical Classification of Diseases and Related Health Problems*) in a child under the age of one year.

Creutzfeldt-Jakob disease (CJD) and variant Creutzfeldt-Jakob disease (vCJD)—

1. Cystic fibrosis in a child under the age of one year
2. Diphtheria
3. Foodborne illness in two or more related cases

Gastroenteritis among people of any age, in an institution (for example, among persons in educational or residential institutions)

1. Haemolytic Uraemic Syndrome.
2. Haemophilus influenzae type b.
3. Hypothyroidism in a child under the age of one year.
4. Legionnaires' disease.
5. Leprosy.
6. Lyssavirus.
7. Measles.
8. Meningococcal disease.
9. Middle East respiratory syndrome coronavirus.
10. Paratyphoid.
11. Pertussis (whooping cough).
12. Phenylketonuria in a child under the age of one year.
13. Plague and
14. Poliomyelitis.

Pregnancy with a child having a congenital malformation (as described in the *International Statistical Classification of Diseases and Related Health Problems*), cystic fibrosis, hypothyroidism, thalassaemia major or phenylketonuria

1. Rabies.
2. Severe Acute Respiratory Syndrome.
3. Smallpox.
4. Syphilis.
5. Tetanus.
6. Thalassaemia major in a child under the age of one year.
7. Tuberculosis.
8. Typhoid.
9. Typhus (epidemic).
10. Viral haemorrhagic fevers and
11. Yellow fever.

SCHEDULE 3 VACCINE PREVENTABLE DISEASES

1. Diphtheria.
2. Haemophilus influenzae type b.
3. Hepatitis B.
4. Measles.
5. Meningococcal type C.
6. Mumps.
7. Pertussis (whooping cough).
8. Poliomyelitis.
9. Rabies.
10. Rubella.
11. Tetanus.
12. TB.
13. Typhoid; and
14. Yellow fever.

SCHEDULE 4—PROCEDURE FOR ESTABLISHMENT OF COMMUNITY HEALTH UNITS

An appropriate system and criteria requires that internationally accepted standards and procedures be used in determining administrative units. The accepted standards have to take into consideration political, socio-economic, cultural and other factors within a given unit of administration. Notwithstanding this, there is need for openness, accuracy and objectivity in determining units. In Kenya, The IEBC in 2012 Delimitation of Boundaries of Constituencies and Wards utilized critical factor of population density in determining units to be established. This is viewed as skewed in the case of Elgeyo/Marakwet County as geographical distance is very critical in delivery of service to the people. In the proposed delimitation of the Elgeyo/Marakwet County Community Health Units critical consideration was placed on population sizes of the current locations and sub locations, land size and topographical zones. These critical factors have been addressed by using existing villages as a base for determination of the number of community health units per Sub County and number of community health volunteers per community health unit. The outcome of this balance between equitable delivery of community health services relative to population and the effort to reverse the trends of

marginalization for the sparsely populated areas that occupy the remotest periphery of the County is in the second schedule of this Act. The baseline population data utilized in the determination of the proposed community health units is in the Kenya Population Census, 2009 figures.

SCHEDULE 5**THE ELGEYO/MARAKWET COMMUNITY HEALTH UNITS**

| <i>Sub County</i> | <i>Name of Community Health Unit</i> | <i>Number of Community Health Units</i> | <i>Census Population 2009</i> |
|-------------------|---|---|-------------------------------|
| Keiyo North | 1.Irong, 2.Anin, 3.Songeto/Rimoi, 4.Kiptuilong, 5.Kobulwo, 6.Kokwao, 7.Msekekwa, 8.Kamoi, 9.Chebaror, 10.Sergoit, 11.Kipsoen, 12.Kapteren, 13.Korkitony, 14.Township, 15.Kapkoi, 16.Kapchelal | 19 | 73,715 |
| Marakwet East | 1.Chekitu, 2.Chemwoto, 3.Chesongoch, 4.Embobut, 5.Embolot, 6.Kaben, 7.Kabetwa, 8.Mkamwo, 9.Kaptich, 10.Kibaimwa, 11.Kipchumwa, 12.Koibirir, | 17 | 78,749 |

| | | | |
|---------------|---|----|---------|
| | 13.Nyimame, 14.St' Abraham – Endo, 15.Mogil, 16.Kessom, 17.Kararia | | |
| Marakwet West | 1.Kapterit, 2.Kamoi, 3.Kapcherop, 4.Sengwer, 5.Koisungur, 6.Kapkochur, 7.Lelan, 8.Jemunada, 9.Kimnai/Yemit, 10.Cheptongei, 11.Chebiemit/Nerkwo, 12.Kilima/Sumbeiywet, 13.Tenden/Chebai, 14.Kaptiony/Koitugum, 15.Kamanin Kabelio, 16.Kondabilet/Busieso, 17.Kapchemuta, 18.Orotai/Kapsowar, 19.Kipsaiya, 20.Kapsumai, 21.Koibarak, 22.Arror | 21 | 108,374 |
| Keiyo South | 1.Kabiemit, 2.Chepkorio, 3.Flax, 4.Lelboinet, 5.Kaptarakwa, 6.Kitany, 7.Mosop, 8.Nyaru, 9.Kabalwat, 10.Kamwosor, | 25 | 109,160 |

| | | | |
|--|--|--|--|
| | 11.Kapkwony, 12.Kocholwo, 13.Maoi, 14.Tumeiyo, 15.Tabare, 16.Epke, 17.Chemoibon, 18.Chepsigot, 19.Kibargoi, 20.Sego, 21.Muskut, 22.Changach Barack, 23.Kimoloi, 24.Turesia, 25.Kalwal. | | |
|--|--|--|--|