

SPECIAL ISSUE

Kenya Gazette Supplement No. 61 (Senate Bills No. 9)



REPUBLIC OF KENYA

KENYA GAZETTE SUPPLEMENT

SENATE BILLS, 2019

NAIROBI, 3rd May, 2019

CONTENT

Bill for Introduction into the Senate—

PAGE

The Cancer Prevention and Control (Amendment) Bill, 2019 111

**THE CANCER PREVENTION AND CONTROL
(AMENDMENT) BILL, 2019**

A Bill for

AN ACT of Parliament to amend the Cancer Prevention and Control Act, and for connected purposes.

ENACTED by the Parliament of Kenya, as follows—

1. This Act may be cited as the Cancer Prevention and Control (Amendment) Act, 2019.

Short title.

2. Section 2 of the Cancer Prevention and Control Act, hereinafter referred to as the “principal Act”, is amended by—

Amendment of section 2 of No. 15 of 2012.

(a) deleting the definition of the word “Board” and substituting therefor the following new definition—

“Board” means the Board of Trustees established by section 6;

(b) deleting the definition “medical institution” appearing immediately after the definition of the word “Institute”

(c) inserting the following new definitions in their proper alphabetical sequence —

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

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

3. Section 5 of the principal Act is amended –

Amendment of section 5 of No. 15 of 2012.

(a) in paragraph (a) by inserting the words “and county governments” immediately after the words “Cabinet Secretary”;

(b) in paragraph (d) by deleting the words “in Kenya” appearing immediately after the words “services

provided” and substituting therefor the words “by the national government”; and

- (c) by inserting the following new paragraph immediately after paragraph (d) –
 - (da) collaborate with counties for the purpose of establishing facilities, delivery of services, collection and analysis of data;
 - (db) collaborate with counties in all matters related to the prevention, diagnostic, treatment and control of cancer.

4. Section 6 of the principal Act is amended in subsection (2) by –

Amendment of section 6 of No. 15 of 2012.

- (a) deleting paragraph (f);
- (b) deleting paragraph (i); and
- (c) inserting the following new paragraph immediately after (j) –
 - (ja) two County Directors of Health nominated by the Council of County Governors.

5. Section 20 of the principal Act is amended –

Amendment of section 20 of No. 15 of 2012.

- (a) in subsection (3) by deleting the words “under subsection (1)” appearing immediately after the words “all particulars” and substituting therefor the words “in the national cancer register”
- (b) by inserting the following new subsections immediately after subsection (3) –
 - (3A) The county executive committee member shall cause to be kept and maintained a county cancer register containing particulars as specified under subsection (2) in relation to the county.
 - (3B) All particulars in the county cancer register and changes in such particulars shall be entered in the register by the county executive committee member as soon as is reasonably practicable after receiving notification.
- (c) by deleting subsection (4) and substituting therefor the following new subsection -
 - (4) A person may, upon payment of such fee as the Board or the county executive committee

member may prescribe, access a copy of the Register or the county register, as the case may be.

6. Section 21 of the principal Act is amended –

Amendment of section 21 of No. 15 of 2012.

- (a) In the marginal note by inserting the words “and county executive committee member” at the end of the marginal note;
- (b) by deleting subsection (1) and substituting therefor the following new subsection—

(1) Every county health facility shall, as soon as reasonably practical, and not later than thirty days after making a diagnosis of cancer on a person, deliver a notification to the county executive committee member for purposes of the register under section 20 (3A).

- (c) by inserting the following new subsections immediately after subsection (1)—

(1A) Every County Executive Committee Member shall collate the notifications received under subsection (1) and submit a report to the Institute as soon as reasonably practical, and not later than thirty days after the end of every quarter for purposes of the Register under section 20 (2) (a)

(1B) Every national referral hospital shall, as soon as reasonably practical, and not later than thirty days after making a diagnosis of cancer on a person, deliver a notification to the Institute for purposes of the particulars of the Register under section 20 (2) (a).

- (d) in subsection (2) –

- (i) by inserting the words “and (1B)” immediately after the words “under subsection (1)”; and
- (ii) by deleting paragraph (d).

7. The principal Act is amended by inserting the following new Part immediately after Part V —

Insertion of new Part IIIA in No. 15 of 2012

**PART IIIA — PREVENTION AND CONTROL OF
CANCER IN COUNTIES**

Role of counties.

22A. (1) Every county government shall —

- (a) implement the national government policy on the control of cancer including the referral mechanism, for the prevention, diagnostic, treatment, rehabilitation and control of cancer;
- (b) ensure the provision of adequate personnel and equipment for the prevention and control of cancer;
- (c) implement the national policy, standards, initiatives and plans on health formulated by the National government for the prevention and control of cancer;
- (d) put in place measures to improve the education, training and skills of health professionals, including allied health professionals, to ensure the use of evidence-based recommendations and quality screening and follow up in the prevention, detection and control of cancer within the county;
- (e) support and promote the implementation of cancer prevention initiatives, including research, education and public policy formulation within the county;
- (f) support and promote the co-ordination of and collaboration in public, private, national and international research and screening programs;
- (g) in collaboration with the Institute, establish —
 - (i) cancer centres and counselling and support centres for persons affected by cancer; and
 - (ii) palliative care facilities and homes for the care of cancer patients;

- (h) ensure that issues concerning cancer prevention and treatment are incorporated into the county development programmes and strategies;
- (i) develop and disseminate public information and conduct education programs for the prevention, detection and control of cancer and promote the benefits of early screenings in the county;
- (j) collaborate with the Institute and relevant agencies in the county in ensuring a co-ordinated approach in facilitating access to health care facilities and treatment within the county;
- (k) establish linkages and networks with local, international and research institutions and development partners in mobilising and sourcing for funding and other resources for the prevention, treatment and control of cancer within the county; and
- (l) advise the Institute regarding the implementation of interventions in the county and their impacts in the control, care and treatment of persons with cancer within the county.

Establishment of a county cancer centre.

22B. Each county government shall establish a county cancer centre within the respective county.

Functions of the county cancer centre.

22C. (1) The county cancer centre shall be responsible for the prevention, treatment and control of cancer at the county level.

(2) Despite the generality of subsection (1), the county cancer centre shall –

- (a) provide cancer prevention services;

- (b) provide cancer screening and diagnostic services;
- (c) provide cancer treatment and control services;
- (d) provide palliative care services, including rehabilitation services;
- (e) advise the county executive committee member on matters relating to cancer prevention, diagnosis, treatment, rehabilitation and other cancer medical care services;
- (f) coordinate services provided within the county for the welfare and treatment of persons with cancer; and
- (g) collect, analyse and disseminate data for the purpose of prevention, diagnosis and treatment of cancer.

Reports of the county cancer centre.

22D. (1) Every county cancer centre shall submit a quarterly report to the county executive committee member.

(2) A report submitted under subsection (1) shall contain information on the activities of the cancer centre and its financial records in such manner as the county executive committee member and the Institute may specify.

MEMORANDUM OF OBJECTS AND REASONS

Statement of the Objects and Reasons for the Bill

The principal object of this Bill is to amend the Cancer Prevention and Control Act to provide for additional functions of county governments in the prevention and treatment of cancer. The county governments shall be responsible for the prevention, treatment, rehabilitation and control of cancer within the county.

The Bill also seeks to establish a county cancer centre in each county to provide specialised medical services related to cancer including screening, diagnostic, treatment, collection of data on cancer within the county and other cancer support services such as palliative, counselling and rehabilitation services.

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

The Bill does not delegate legislative powers nor does it limit the fundamental rights and freedoms.

Statement on how the Bill concerns county governments

This Bill is expected to ensure that the provision of services relating to the prevention, treatment and control of cancer are easily accessible at the county level. Pursuant to paragraph 2 of Part 2 of the Fourth Schedule to the Constitution, the provision of health services is one of the functions that falls within the ambit of the county governments.

The Bill is therefore a Bill concerning county governments in terms of Article 110(1)(a) of the Constitution.

Statement that the Bill is not a money Bill within the meaning of Article 114 of the Constitution

The Bill is not a money Bill within the meaning of Article 114 of the Constitution.

Dated the 11th April, 2019

ABDULLAHI IBRAHIM ALI,
Senator.

Section 2 of the Act that it is proposed to be amended—

Interpretation

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

“Board” means the Board of Management established by section 6;

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

“Chairperson” means the Chairperson of the Board appointed under section 6;

“Chief Executive Officer” means the Chief Executive Officer of the Institute appointed under section 10;

“Institute” means the National Cancer Institute of Kenya established by section 4;

“medical institution” means a hospital, clinic, dispensary or other place where a diagnosis of cancer is made and includes a medical practitioner practising in his or her own name;

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

“person with cancer” means a person diagnosed as having cancer;

“register” means the national cancer register established under section 20.

(2) For the period prior to the announcement of the results of the first elections of Parliament as contemplated by section 2 of the Sixth Schedule to the Constitution, reference to a “Cabinet Secretary” in this Act shall be deemed to be reference to a Cabinet Minister and reference to a Principal Secretary shall be deemed to be a reference to a Permanent Secretary.

Section 5 of the Act that it is proposed to be amended —

Functions of the Institute

5. The functions of the Institute shall be to —

- (a) advise the Cabinet Secretary on matters relating to the treatment and care of persons with cancer and to advise on the relative priorities to be given to the implementation of specific measures;
- (b) encourage and secure the establishment of hospitals, vocational treatment and care centres and other institutions for the welfare and treatment of persons with cancer in all counties of the Republic;

- (c) encourage and secure provision of diagnostic, treatment, rehabilitation and other medical care to persons with cancer in those institutions;
- (d) co-ordinate services provided in Kenya for the welfare and treatment of persons with cancer and to implement programmes for vocational guidance and counseling;
- (e) collect, analyze and disseminate all data useful in the prevention, diagnosis and treatment of cancer;
- (f) collaborate with international institutions for the purpose of collecting for the Register and cataloging, storing and disseminating the results of cancer research undertaken in any country for the use of any person involved in cancer research in any country;
- (g) establish and support the large scale production or distribution of specialized biological materials and other therapeutic substances for research and set standards of safety and care for persons using such materials;
- (h) ensure that accurate figures of persons with cancer are obtained in the country for purposes of planning;
- (i) provide access to available information and technical assistance to all institutions, associations and organizations concerned with the welfare and treatment of persons with cancer, including those controlled and managed by the Government;
- (j) encourage and secure the care of persons with cancer within their communities and social environment;
- (k) establish and support measures that seek to eradicate conditions that cause and aggravate the spread of cancer;
- (l) recommend measures to prevent discrimination against persons with cancer;
- (m) generally to carry out measures for public information on the rights of persons with cancer and the provisions of this Act; and
- (n) encourage and participate in the provision of training on cancer prevention and control.

Section 6 of the Act that it is proposed to be amended—

Board of Trustees

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

(2) The Board shall consist of the following persons appointed by the Cabinet Secretary —

- (a) the Chairperson;
- (b) the Principal Secretary for the time being responsible for matters relating to health or his designated alternate not being below the level of Deputy Secretary;
- (c) the Principal Secretary for the time being responsible for matters relating to finance or his designate alternate not being below the level of Deputy Secretary;
- (d) one person nominated by the registered cancer associations in such manner as may be prescribed;
- (e) the Secretary of the National Council for Science and Technology or his designated alternate not being below the level of Deputy Secretary;
- (f) one person nominated by the Media Owners Association in such manner as may be prescribed;
- (g) one prominent philanthropist or industrialist of good standing;
- (h) one person nominated by the universities teaching medicine in such manner as may be prescribed;
- (i) one person nominated by institutions conducting medical research in such manner as may be prescribed;
- (j) the Attorney-General or his representative who shall be an ex officio member; and
- (k) the Chief Executive Officer who shall be an ex officio member and Secretary to the Board.

(3) No person shall be appointed under subsection (2)(a) unless such person is a registered medical practitioner and is a recognized medical specialist of not less than ten years' experience in leadership at national institutional level.

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

(5) No person shall be appointed as a member of the Board unless such person meets the requirements of Chapter Six of the Constitution.

Section 20 of the Act that it is proposed to be amended—

Cancer register

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

- (2) The Register shall contain particulars on —
- (a) the incidence, preference, trends, type and geographical location of which due notification has been given pursuant to section 21;
 - (b) institutions, associations and organizations, including those controlled and managed by the national, and county governments, that provide care and treatment services for persons with cancer; and
 - (c) such other matters as the Board may prescribe.

(3) All particulars under subsection (1) and changes in such particulars shall be entered in the Register by the Chief Executive Officer as soon as is practicable after receiving notification thereof.

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

Section 21 of the Act that it is proposed to be amended—

Notification to Institute

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

- (2) A notification under subsection (1) shall —
- (a) be in such form as may be prescribed;
 - (b) specify the type and geographical location of persons with the cancer;
 - (c) not disclose the name of the person with cancer unless with the consent of the person or his guardian where such person is a minor;
 - (d) be given not later than sixty days after the diagnosis.

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