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CONTENT

Bill for Introduction into the Senate—	PAGE
The County E-Health Bill, 2021	1049

THE COUNTY E-HEALTH BILL, 2021
ARRANGEMENT OF CLAUSES

Clause

PART I – PRELIMINARY

- 1 —Short title.
- 2 —Interpretation.
- 3 —Objects of the Act.
- 4 — Guiding principles.

PART II—ESTABLISHMENT OF THE E-HEALTH SYSTEM

- 5—Establishment of e-health system.
- 6—Principles in the development of an e-health system.

PART III—E-HEALTH SERVICES

- 7—Role of National Government in provision of e-health services.
- 8—Role of county governments in the delivery of e-health services.
- 9—Criteria for the establishment of a county e-health system.
- 10—Establishment of county e-health centres.
- 11—Components of an e-health system.
- 12—Persons who may deliver e-health services.
- 13—Registration of e-health providers.
- 14—Duties of healthcare providers.
- 15—Rights of patients in telemedicine and e-health systems.

PART IV—E-HEALTH INFORMATION

- 16—Access to and sharing of information.
- 17—Information rights for recipients of healthcare services.
- 18—Healthcare identifiers.

- 19—Establishment of registries.
- 20—Interoperability and data exchange.
- 21—Platform for the provision of store-and-forward services.
- 22—Information to be set out in an e-health database.
- 23—Designation order
- 24—Collection and use of health information.
- 25—Application for disclosure of information for health research purposes.
- 26—County health data stewardship committee.
- 27—Functions of the Committee.

PART V — MISCELLANEOUS PROVISIONS

- 28—Complaints.
- 29—Regulations.

THE COUNTY E-HEALTH BILL, 2021

A Bill for

AN ACT of Parliament to provide a framework for the implementation of section 104 of the Health Act, 2017, the provision of telemedicine services and the establishment and management of e-health infrastructure and services at the national and county levels of government and for connected purposes

ENACTED by the Parliament of Kenya, as follows—

1. This Act may be cited as the County E-Health Act, 2021.

Short title.

2. In this Act,—

Interpretation.

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

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

“designation order” means an order establishing or designating a health information bank under section 23;

“e-health” means the provision of health care services through use of information and communication technology, including mobile devices, remote patient monitoring devices and other electronic devices;

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

“information and communication technology” shall include—

No. 21 of 2017.

- (a) compressed digital interactive video, audio or data transmission;
- (b) real-time synchronous view or web-conferencing communication;
- (c) secure web-based communication;
- (d) still image capture or asynchronous store and forward; and
- (e) modern smart medical device use for diagnosis and healthcare services;

“store-and-forward telemedicine services” means the process of storage, transmission and sharing of patient medical information by a healthcare provider in order to provide diagnostic and therapeutic assistance in the care of the patient without the patient or other healthcare provider being present in real time; and

“telemedicine” has the meaning assigned to it under section 2 of the Health Act”.

3. The objects of this Act are to provide a framework—

Objects of the Act.

- (a) for the establishment and management of communication tools for use by healthcare providers in the delivery of healthcare services;
- (b) to facilitate the availability, timely access to and transmission of information necessary for the effective delivery of services by healthcare providers;
- (c) for the establishment of mechanisms for ease of communication and timely transmission of information between patients and health care providers and the management by persons of their own health and well-being; and
- (d) that facilitates innovation and optimal use of information and communication technology in the health sector in order to facilitate the quick dissemination of information, treatment, care and management of patients.

4. In implementing the Act, all persons shall be guided by the following principles—

Guiding principles.

- (a) guarantee of patient information rights, integrity, and confidentiality in line with emerging public health access needs;
- (b) cost-effectiveness, efficiency and benefit-driven solutions taking into account the resources available for the delivery of health services;
- (c) exploitation of existing structures and use of an incremental approach;
- (d) continuous technology development, standardization and convergence; and

- (e) public participation and collaboration with relevant stakeholders.

PART II—ESTABLISHMENT OF THE E-HEALTH SYSTEM

5. (1) The National and county governments shall promote the realization of the right to health and shall, for this purpose, establish an e-health system.

Establishment of the e-health system.

(2) The Cabinet Secretary and the respective county executive committee members shall collaborate in the development and establishment of an integrated e-health system at the national and county level of government and shall, for this purpose –

- (a) formulate policies and standards for the implementation and regulation of the e-health sector at the national and county level of government;
- (b) align the e-health system with existing healthcare systems and ensure that the system provides a platform for the better delivery of health services;
- (c) upgrade and, where necessary, develop the necessary information and communication technology infrastructure necessary to efficiently deliver quality e-health services at an affordable rate;
- (d) develop the necessary infrastructure to promote equitable, affordable and universal access to health services;
- (e) develop the systems necessary to ensure that the data and information relating to patients is secure and protected and that facilitate the secure exchange of personal health information;
- (f) undertake continuous assessments and upgrades of the e-health system and ensure effectiveness in its operation; and
- (g) collaborate with the relevant stakeholders and leverage on existing human, financial and technical resources in the implementation of e-health system.

(3) In developing and establishing an e-health system, the Cabinet Secretary and the respective county executive committee members shall ensure that —

- (a) all citizens are able to use secure, personal e-services to access information relating to their own health and social care interventions and in particular, facilitate—
 - (i) access to medical facilities;
 - (ii) access to delivery of healthcare services;
 - (iii) access to information relating to a patient by the authorised persons;
 - (iv) support healthcare services for persons living in remote areas or persons who are unable to access a medical facility upon the occurrence of an illness; and
 - (v) ease of immediate transfer of information relating to a patient from one medical facility upon the transfer of a patient to a medical facility.
- (b) a platform exists that enables a person to document and share information about his or her own health and which may serve as a resource for both health provider and the person; and
- (c) the e-health system is accessible, user friendly and enables a person to make a free and informed choice regarding their health.

6. The National Government and the county governments shall, in developing, implementing and maintaining an e-health system, adhere to the following principles —

- (a) transparency and accessibility of information;
- (b) privacy and security of information;
- (c) user involvement and patient-centred delivery of services;
- (d) consent in the delivery of e-health services;
- (e) preservation of the dignity of the patient in ensuring that patient information is only used in

Principles in the development of an e-health system.

the delivery of health services to such patient and is not put to inappropriate use; and

- (f) consultation.

PART III— E-HEALTH SERVICES

7. (1) The National Government shall, pursuant to section 103 of the Health Act, —

Role of national government in provision of e-health system.

- (a) develop and implement an e-health policy, national standards and ethics framework necessary for the delivery of e-Health services; and
- (b) direct and coordinate the implementation of the e-health system and delivery of services at the national level of government and for this purpose, integrate the e-health system into the existing health system at the national and county level of government.

(2) The Cabinet Secretary shall in consultation with the respective county executive committee members and for purposes of subsection (1) —

- (a) establish a national electronic public health information system and put in place mechanisms for access by the relevant stakeholders;
- (b) integrate the system established under paragraph (a) into the health systems established or existing at the county level of government;
- (c) develop the information and communication technology infrastructure necessary for the implementation of the e-health system;
- (d) collaborate with county governments in ensuring that the delivery of e-health services as the county level are aligned with the national e-health policy and standards;
- (e) designate national and regional centers and networks of excellence for the delivery of e-health best practices, policy coordination and technical support to county governments in the delivery of e-health services;
- (f) undertake research and implement programmes for the continuous advancement and effective implementation of the e-health system;

- (g) collaborate with county governments and relevant stakeholders in the health sector in the conduct of capacity building and sensitization programmes regarding the implementation of the e-health system;
- (h) formulate responsive plans and strategies for the implementation of a national e-health system in co-ordination with major stakeholders and affected sectors;
- (i) establish incentives to encourage and facilitate healthcare providers and other relevant stakeholders in investing in computing infrastructure for the delivery of e-health services and adopt the use of e-health solutions; and
- (j) monitor and evaluate the effectiveness of the e-health system at the national and county levels of government.

8. Each county executive committee member shall, with respect to the e-health system established in the respective county—

Role of county governments in the delivery of e-health services.

- (a) implement the national policy and standards on the delivery of e-health services in the county;
- (b) collaborate with the National Government in the implementation of the e-health system in the respective county;
- (c) monitor and evaluate the implementation, performance and effectiveness of the e-health system in the respective county;
- (d) put in place the necessary infrastructure to ensure that the services are widely accessible by the residents of the county;
- (e) collaborate with the National Government in the building of capacity of healthcare providers in the respective county; and
- (f) carry out such sensitization programmes as may be necessary to create public awareness of the e-health system.

9. A county e-health system established pursuant to section 5(1) shall—

Criteria for the establishment of a county e-health system.

- (a) be systematically developed in a co-ordinated manner to facilitate interconnectivity;
- (b) be aligned to the needs of primary healthcare recipients;
- (c) guarantee all users privacy and confidentiality;
- (d) serve the needs of the patient and the doctor and enable the monitoring of healthcare parameters;
- (e) facilitate the administration and management of healthcare services in the county; and
- (f) enable quality assessment and improvement.

10. (1) Each county government shall, for the purposes of this Act and in accordance with the national policy—

Establishment of county e-health centres.

- (a) establish such e-health centres as it considers necessary for the effective delivery of health services in the county;
- (b) establish such call centres as may be necessary to facilitate the delivery of e-health services;
- (c) equip the e-health and call centres with the equipment and human resource necessary for the delivery of e-health services; and
- (d) collaborate with the Ministry in the conduct of continuous training programmes for health personnel within the county.

(2) In establishing an e-health centre, the county executive committee member shall ensure that such centre is—

- (a) equipped with the necessary information and communication technology infrastructure to enable the centre deliver its services efficiently;
- (b) supervised and staffed by trained personnel;
- (c) inspected on a periodic basis as shall be determined by the county executive committee member; and
- (d) aligned to the national policy and meets the standards on the delivery of e-health services prescribed by the Cabinet Secretary.

(3) The county executive committee member, in consultation with the Cabinet Secretary, may designate a hospital under the management of the respective county as an e-health centre.

11. In establishing and implementing the e-health system under this Act, the Cabinet Secretary and the county executive committee members shall—

Components of an e-health system.

- (a) engage with healthcare providers at the national and county levels of government and put in place mechanisms for the accessibility and coordinated delivery of healthcare;
- (b) put in place a system for the sharing, securely, of patient information and treatment options across geographical and health sector boundaries through the use of common standards on data structure, technologies and messaging;
- (c) establish and implement software certification or accreditation of e-health solutions to be implemented by healthcare providers under this Act;
- (d) define the standards of delivery of e-health services;
- (e) put in place a mechanism that establishes and supports the information and communication technology and medical base to enable the exchange of information across by healthcare providers and the respective patients across the country;
- (f) develop the workforce necessary to implement the e-health system at the national and county level of government;
- (g) decentralise the delivery of e-health services to the lowest unit of service delivery at the county level of government; and
- (h) put in place the necessary strategies and plans for the continuous development, operation and maintenance of the e-health system.

PART IV— HEALTHCARE PROVISIONS

12. No person other than—

Persons who may deliver e-health services.

- (a) a healthcare provider holding a valid licence issued under section 63 of the Health Act; or
- (b) an institution or firm holding a license issued under section 63 of the Health Act, may practice telemedicine.

13. All telemedicine and e-health practitioners shall be registered in such manner as the Cabinet Secretary shall prescribe.

Registration of e-health providers.

14. (1) All healthcare providers shall ensure that they have obtained written consent from a patient before carrying out their duties under this Act.

Duties of healthcare providers.

(2) A healthcare provider engaged in the provision of telemedicine and e-health services under this Act, shall—

- (a) obtain the legal consent of a patient before recording or capturing their information for the purposes of providing e-health services;
- (b) ensure confidentiality of patient information;
- (c) provide the highest standard of care to patients undergoing treatment;
- (d) adhere to the duties of a healthcare provider specified under section 8 of the Health Act;
- (e) provide prompt and accurate data necessary for treatment of patients;
- (f) ensure efficient and effective provision of telemedicine and e-health services;
- (g) respect the patient’s right to dignity, privacy and autonomy;
- (h) ensure that patients have access to their own data; and
- (i) inform a patient about the medical equipment that shall be used in the provision of telemedicine and e-health services to that patient.

No. 21 of 2017

(3) Where a patient is a minor or is incapacitated, the parent or appointed guardian of the patient shall, for

purposes of subsection (1), act on behalf of, and in the best interest of, the patient in accordance with the Health Act.

(4) Nothing in this Act shall prevent a patient from seeking a claim in court for compensation for injury arising from breach of duty by a healthcare provider under this Act.

15. A patient who is undergoing treatment through the provision of telemedicine and e-health shall have the right to —

Rights of patients in telemedicine and e-health systems.

- (a) prompt and effective medical services;
- (b) obtain information concerning their data; and
- (c) object to the inclusion of references and sensitive data including individual medication data for a concrete treatment or care case.

PART IV— E-HEALTH INFORMATION

16. (1) In establishing and implementing the e-health system under this Act, the Cabinet Secretary and the county executive committee members shall—

Access to and sharing of information.

- (a) ensure that health information on the e-health platforms for patients and physicians is available in English, Kiswahili and, where necessary, the local language;
- (b) collaborate with the Cabinet Secretary responsible for information and communication technology in putting in place the necessary infrastructure to enable online access to e-health services across the country;
- (c) put in place mechanisms that enable the delivery of e-health services through various platforms including mobile devices, telemedicine centres and community digital centres to facilitate access to information;
- (d) facilitate the use of e-health services by caregivers in geographically isolated communities to provide healthcare services; and
- (e) put in place the necessary infrastructure to promote the cross-border sharing of health information about the medical incidences and

history of a particular patient by healthcare providers without compromising the right to privacy of the patient.

(2) The Cabinet Secretary shall, in consultation with the Cabinet Secretary responsible for information and communication technology and for the purposes of subsection (1), prescribe—

- (a) standards regulating the capture, storage and sharing of information relating to patients;
- (b) regulations for the transmission of information in a manner that ensures confidentiality and that the integrity of data is maintained during transmission;
- (c) the manner in which information is shared between healthcare providers and between patients and their healthcare providers;
- (d) guidelines for the administration of the mobile health services; and
- (e) a framework for the efficient interoperability of the various e-health systems and services.

17. (1) Every person receiving healthcare services through the e-health system shall have the right to—

- (a) access to quality and reliable health information;
- (b) access to their electronic health records;
- (c) access and manage their personal health records; and
- (d) interact with their healthcare providers.

(2) Every healthcare provider under this Act shall—

- (a) have the right to access —
 - (i) a reliable network information and communication system; and
 - (ii) health information including clinical decision support tools;
- (b) collaborate and coordinate with other healthcare providers and health consumers in the provision of information, electronic consultations or other medical services; and

Information rights for recipients of healthcare services.

(c) have access to an integrated or single view of their respective patients' health information at the point of care.

(3) The Cabinet Secretary shall, in collaboration with the county executive committee members and, for the purposes of subsection (1),—

(a) issue to each person and healthcare provider using e-health services under this Act a national health identifier in accordance with section 18;

(b) integrate into the e-health system, a health reporting system that is able to generate quality information and support effective decision making with respect to a patient;

(c) undertake sensitization and capacity building programmes on the effective access, use and dissemination of information under the e-health system; and

(d) provide the necessary technical support to all users of the e-health system and may for this purpose, establish such number of tele-call centres as may be necessary for the provision of adequate technical support.

18. (1) The Cabinet Secretary shall, in collaboration with the county executive committee members, —

Healthcare identifiers.

(a) establish a national and county health identifier system for the effective delivery of patient centred healthcare services under this Act; and

(b) assign to every healthcare recipient, individual healthcare provider and healthcare provider organisation, a national health identifier that is unique to that person or organisation.

(2) The Cabinet Secretary shall prescribe standards and guidelines for the assignment of health identifiers at the national and county level of government.

19. (1) Each county executive committee member shall establish a county health registry containing the health records with respect to all patients receiving treatment in a hospital falling within the mandate of the respective county government.

Establishment of registries.

(2) The Health Records and Information Managers Board established under section 3 of the Health Records and Information Managers Act shall establish and manage a central registry consisting of health records of patients receiving treatment in referral hospitals.

(3) The Health Records and Information Managers Board shall collaborate with the county executive committee members in the establishment and management of their respective registries under subsection (1).

(4) The Cabinet Secretary shall, in consultation with the National Records and Information Managers Board and county executive committee members, prescribe standards for the establishment and management of registries established pursuant to this section.

20. The Cabinet Secretary shall establish a framework for the interoperability of systems and devices necessary for implementing the e-health system under this Act and shall, for this purpose—

Interoperability and data exchange.

- (a) prescribe standards and processes for the adoption of information and communication technology that facilitates interoperability between systems and devices in the e-health system;
- (b) prescribe privacy and security standards and standards to address unique needs and situations;
- (c) regularly update and sensitize healthcare providers on the access and application of the system; and
- (d) put in place a mechanism for the effective and efficient transfer of information in a manner that retains the integrity of the information and ensures that the information is capable of interpretation in the manner that it was intended.

21. (1) Each county executive committee member shall for the effective implementation of the e-health system in the respective county, establish an electronic system for the provision of store-and-forward services.

Platform for the provision of store-and-forward services.

(2) A patient receiving medical care by store-and-forward telemedicine shall be notified of the right to receive interactive communication with the distant specialist healthcare provider and shall receive an

interactive communication with the distant specialist upon request.

22. (1) Each healthcare provider shall set up a database with respect to each healthcare recipient under their care and to whom health care services are delivered under the e-health system.

Information to be set out in an e-health database.

(2) A database established under subsection (1) shall include the following information with respect to each health care recipient —

- (a) the national healthcare identifier issued under section 18(2);
- (b) information required to verify the unique identifier issued to the health care recipient;
- (c) the name, date and place of birth;
- (d) physical address which shall include county of residence;
- (e) physical characteristics of the healthcare recipient;
- (f) any significant health or physical characteristics that require to be taken into account in administering any treatment to the healthcare recipient;
- (g) health data of the healthcare recipient;
- (h) information regarding the present and previous healthcare provider; and
- (i) such other information as the Cabinet Secretary or county executive committee may prescribe or which the healthcare provider may consider relevant.

(3) A healthcare provider shall not display or require information regarding the ethnicity of a patient.

(4) Treatment recommendations made through electronic means by a healthcare provider shall be held to the same standards of practice as those in traditional provider-patient setting.

23. (1) The Cabinet Secretary may, by order in the *Gazette*, establish or designate a database containing personal health information as a health information bank, if—

Designation order.

- (a) the database is in the custody or under the control of a healthcare body, and
 - (b) the collection and use of personal health information through the database is for a purpose set out in section 24 of this Act.
- (2) The Cabinet Secretary shall, in issuing a designation order under subsection (1),—
- (a) identify the type or nature of personal health information to be contained in the health information bank, and the source of the personal health information;
 - (b) in the case of a health information bank in the custody or under the control of a health care body other than the Ministry responsible for health, authorize one individual who is an employee of the health care body to administer the health information bank;
 - (c) identify the purposes, as set out in section 4, for which personal health information may be collected and used through the health information bank;
 - (d) identify the purposes, if any, for which personal health information may be disclosed from the health information bank;
 - (e) authorize one or more persons to collect, use or disclose personal health information through the health information bank;
 - (f) identify the persons from whom personal health information may be collected into the health information bank, including identifying whether personal health information may be collected other than directly from the individual whom the personal health information is about;
 - (g) except in the case of disclosure for a health research purpose, identify to whom personal health information contained in the health information bank may be disclosed; and
 - (h) identify the limits or conditions, if any, on the collection, storage, use or disclosure of personal

health information contained in or disclosed from a health information bank.

(3) A designation order may describe a person by name, title or position.

(4) A designation order is not effective until notice of the designation order is published in the *Gazette*.

(5) If a health information bank is established or designated by a designation order, personal health information may be collected, used and, subject to section 25 of this Act.

24. (1) No person shall collect, use or divulge information relating to the health of a patient unless such information is necessary to—

Collection and use of health information.

- (a) identify an individual who is in need of or is receiving healthcare services and requires treatment;
- (b) provide health services to, or facilitate the care of, the patient;
- (c) identify a person who is providing health services;
- (d) prevent or manage chronic conditions, at the individual or population level;
- (e) facilitate health insurance and health service billing and in particular, with respect to—
 - (i) a payment in respect of health services or prescribed drugs, devices or pharmaceutical services to be made to or by the national government or a public body;
 - (ii) authorizing, administering, processing, verifying or cancelling such a payment;
 - (iii) resolving an issue regarding such a payment; or
 - (iv) audits by a county government or the Ministry responsible for health or the Office of the Auditor General that makes reimbursement for the cost of health services or prescribed drugs, devices or pharmaceutical services;

- (f) assess and address public health needs;
- (g) engage in health system planning, management, evaluation or service delivery improvement including—
 - (i) health service development, management, delivery, monitoring and evaluation,
 - (ii) the compilation of statistical information,
 - (iii) public health surveillance, and
 - (iv) the assessment of the safety and effectiveness of health services;
- (h) conduct or facilitate research into health issues;
- (i) assess and address threats to public health; and
- (j) address such public health issue as the Cabinet Secretary may, by order, determine.

(2) The principles of personal data protection set out under the Data Protection Act shall apply to the collection, processing and transmission of personal data by a health care provider under this Act.

No. 24 of 2019.

25.(1) A person who requires health information or data for the conduct of health research shall submit an application, in the prescribed form, to—

Application for disclosure of information for health research purposes.

- (a) in the case of information at the national level of government, the Cabinet Secretary; or
- (b) in the case of information at the county level of government, to the respective county executive committee member.

(2) A person shall, in making an application under subsection (1), submit to the Cabinet Secretary or the county executive committee member, as the case may be,

- (a) a verified official notification of the registered place of business in the case of a company or place of operation in the case of an individual applicant;
- (b) in the case of information required for purposes of conducting health research by a learning or research institution, a letter from the institution authorizing the applicant to conduct such research;

- (c) a statement on the purpose for which the information is sought;
- (d) the prescribed fee; and
- (e) such other information as the Cabinet Secretary or the county executive committee member may prescribe.

(3) The Cabinet Secretary or the county executive committee member, as the case may be, shall consider an application made under subsection (1) and may, if satisfied that the applicant meets the requirements of this Act and the requirements set out under subsection (4), issue a permit to the applicant upon payment of the prescribed fee.

(4) The Cabinet Secretary or the county executive committee member, as the case may be, shall not approve an application for the disclosure of health information under subsection (3) unless—

- (a) the request is for a health research purpose that cannot reasonably be accomplished unless the health information requested is disclosed;
- (b) the disclosure does not include information that would lead to the identification of individual persons;
- (c) if the protected information is contained in a health information bank, the disclosure is authorized under the terms of the applicable designation order;
- (d) the disclosure is on condition that it not be used for the purpose of contacting a person to participate in the health research, unless the county health director approves—
 - (i) the health research purpose;
 - (ii) the use of disclosed personal health information for the purpose of contacting a person to participate in the health research; and
 - (iii) the manner in which contact is to be made, including the information to be made available to persons contacted;

- (e) any data linkage is not harmful to the individuals who are the subjects of the health information, and the benefits to be derived from the record linkage are clearly in the public interest; and
 - (f) the Cabinet Secretary or the county executive committee member, as the case may be, has imposed conditions relating to—
 - (i) security and confidentiality of the information;
 - (ii) the removal or deletion of individual identifiers at the earliest reasonable time; and
 - (iii) the prohibition of any subsequent use or disclosure of personal health information without the express authorization of the Cabinet Secretary or the county executive committee member.
- (5) The Cabinet Secretary or the county executive committee member, as the case may be, shall—
- (a) consider and determine the application within twenty-one days of receipt of the application; and
 - (b) inform the applicant of the decision and issue to the applicant a permit in writing within seven days of such decision.
- (6) The Cabinet Secretary or the county executive committee member, as the case may be, may, in issuing a permit under subsection (1), impose such conditions on the applicant as it considers necessary and may, from time to time, vary such conditions.

26. (1) The county executive committee member may, for the effective performance of the functions under section 25 and for the performance of any other function necessary for the effective implementation of this Act, establish a county health data stewardship committee.

County health data stewardship committee.

(2) Where a county executive committee member establishes a committee under subsection (1), it shall consist of —

- (a) the respective County Director of Health;
- (b) a representative from the Kenya Health Human Resource Advisory Council established under section 30 of the Health Act;

No. 21 of 2017.

- (c) a representative from the relevant regulatory body established pursuant to section 62 of the Health Act;
- (d) one person nominated by the respective county public service board; and
- (e) one person nominated by the Kenya Medical Practitioners and Dentists Board established under section 3 of the Medical Practitioners and Dentists Act.

Cap. 253.

(3) The data stewardship committee shall be appointed by the respective county executive committee member by notice in the *Gazette*.

(4) The persons nominated under subsection (1)(d) and (e) shall serve for a term of three years renewable for one further term.

27. The county health data stewardship committee shall—

Functions of the Committee.

- (a) consider applications for health data or information under section 25;
- (b) monitor and evaluate the application and effectiveness of the health database ;
- (c) make recommendations to the county executive committee member on the management of health data;
- (d) perform such functions as may be delegated to it by the respective county executive committee member or under any other written law.

PART V—MISCELLANEOUS PROVISIONS

28. (1) A patient who is aggrieved by an action or decision taken by a healthcare provider or any person under this Act may file a complaint in the prescribed form.

Complaints.

No. 17 of 2017.

(2) A complaint filed under this Act shall be investigated in an expeditious manner in accordance with the procedures established under section 14(2) of the Health Act.

29. (1) The Cabinet Secretary may prescribe Regulations for the better carrying out of the provisions of this Act.

Regulations.

(2) For the purposes of Article 94(6) of the Constitution—

- (a) the power of the Authority to make regulations shall be limited to bringing into effect the provisions of this Act and the fulfilment of the objectives specified under subsection (1); and
- (b) the principles and standards set out under the Interpretation and General Provisions Act and the Statutory Instruments Act in relation to subsidiary legislation shall apply to regulations made under this Act.

MEMORANDUM OF OBJECTS AND REASONS

Statement of Objects and Reasons

The Bill seeks to enhance the delivery of medical services through the provision of e-health at the county level. As per the World Health Organisation, e-Health is the use of information and communication technologies (ICT) for health.

The World Health Assembly in 2005 recognized the potential of eHealth to strengthen health systems and improve quality, safety and access to care, and encouraged Member States to take action to incorporate eHealth into health systems and services. Health information is used by policy-makers, planners, healthcare providers, development partners and the general public to track health system performance, support better health policies and make effective health-related decisions.

Section 104 of the Health Act, 2017 recognizes the importance of e-health and states that within 3 years of the enactment of the act, legislation shall be enacted to ensure the enhancement of e-health.

Part I of the Bill sets out the preliminary clauses used within the proposed legislation. In this part, various key definitions are comprehensively defined.

Part II of the Bill contains clauses which outlines the establishment of the e-health system. Clause 6 contains the principles which are intended to guide the development of an e-health system and both levels of government are obligated to adhere to these principles.

Part III of the Bill touches on the e-health system itself. In the clauses contained in this part, the role of both levels of government are outlined, the criteria and components of an e-health system are described as well as the duties and obligations of persons involved in the delivery and registration of e-health systems. Patients' rights are also included in this part.

Part IV touches on e-health information. This part deals with various aspects of data in e-health systems as envisioned in the Bill. Data collection, exchange, protection and registries are also covered by the clauses in this part.

Part V contains the miscellaneous provisions of the Bill.

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

The Bill once enacted, will compel county governments to give effect to e-health as encapsulated in the Health Act, 2017. It therefore does not

delegate legislative powers. The Bill does not limit fundamental rights and freedoms.

Statement on how the Bill concerns county governments

The proposed Bill concerns county governments in terms of Article 110(1)(a) as it concerns health which is a devolved function under paragraph 2 of Part 2 of the Fourth Schedule. The Bill compels county governments to adhere to the provisions of section 104 of the Health Act, 2017.

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 28th May, 2021.

JUDITH PARENO,
Senator.