

**COUNTY ASSEMBLY OF SAMBURU**



**THE HANSARD**

**Tuesday, 28<sup>th</sup> March, 2017**

**The Assembly met at the County Assembly chambers at 2:30 p.m.**

*The Deputy Speaker, County Assembly of Samburu (hon. Adamson Lanyasunya) in the Chair*

**PRAYER**

**MOTION**

**MCA Ang'ata Nanyokie Ward**, (hon. John Lemulugo): Thank you hon. Speaker. Pursuant to Standing Order No. 47, I wish to move a motion that this House debates and approves the report of the committee on Medical Services, Health and Sanitation on health services Bill 2016.

I call upon hon. Dube to second.

*(Hon. Dube bows in seconding)*

**The Deputy Speaker**, (hon. Lanyasunya): I now propose the question on the following motion for discussion and approval that, pursuant to Standing Order No. 47, I wish to move a motion that this House debates and approves the report of the committee on Medical Services, Health and Sanitation on health services Bill 2016.

**MCA Ang'ata Nanyokie Ward**, (hon. Lemulugo): Mr. Speaker Sir, I am Pleased to present and table the report on the public participation of the Health Services Bill, 2016 to the County Assembly of Samburu by the Committee on Medical Services, Public Health and Sanitation with respective recommendations.

**Mandate of the Committee**

The mandate of the committee on Medical Services, Public Health and Sanitation according to section 191 clause 5 shall be to investigate, inquire into, and report on all matters relating to:

- i.** The mandate, management, activities, administration, operations and estimates of the assigned department among others
- ii.** Study the programme and policy objectives of the department and the effectiveness of the implementation through studying by reviewing all county legislation referred to it.
- iii.** Study, assess and analyse the relative success of the departments as measured by the results obtained as compared with their stated objectives by investigating and inquiring into all matters relating to the assigned departments as they may deem necessary, and as may be referred to them by the County Assembly.

On this occasion the committee... (*Interruption by hon. Leakono on a point of information*)

**The Deputy Speaker**, (hon. Lanyasunya): What is the point of information hon. Leakono?

**MCA Elbarta Ward**, (hon. Romano Leakono): I would like to point out that some of the members I included do not have the Bill in question as I am only seeing the committee report.

**The Deputy Speaker**, (hon. Adamson Lanyasunya): Clerks please note that and distribute the report. Continue hon. Lemulugo.

**MCA Ang'ata Nanyokie Ward**, (hon. Lemulugo): The Bill was attached to the report please.

*(The Chair continues to read the report from where he left)*

...was called upon to enquire from the public as required by the supreme law of the country so as to capture any changes proposed by the public and make reports and recommendations to the County Assembly in relation to the proposed legislation.

### **Committee Membership**

The committee on Medical Services, Public Health and Sanitation comprises of the following members;

1. Hon. John Lemulugo – Chairperson
2. Hon. Ltipilisa Lekupe – vice Chair
3. Hon. Irene Leshore – Member
4. Hon. Jackson Lelenkeju – Member
5. Hon. Osman Dub – Member
6. Hon. Penina Lemarle – Member
7. Hon. Elly Loldepe – Member

In cognisance with the importance and the various interests the public and the members of this House had on this Bill, the committee facilitating all members of the committee in undertaking

public participation and this has enabled the committee to be able to undertake this exercise in three days. Therefore, all members are involved in developing this report.

### **Acknowledgement**

The Committee thanks the Offices of the Speaker and the Clerk of the County Assembly of Samburu for the support extended to it to conduct the public hearings. The Committee also thanks in particular the members of the committee who actively participated in the public forums.

It is my pleasant duty, pursuant to Standing Order 121(3), to present a report of the Committee on Medical Services, Public Health and Sanitation for consideration by the House.

### **Introduction**

The Samburu County Health Services Bill, 2015 (Assembly Bill No.13), was published in the special issue of the Samburu County Gazette Supplement No. 15 on 26th June,2015, pursuant to section 23 of the County Government Act No. 12, of 2012.

After its publication, the bill was then introduced to the County Assembly on 21<sup>st</sup> July 2015 for its first reading in accordance with the Interim County Assembly Standing order No. 120, after which it was committed to the Medical Services, Public Health and Sanitation Committee in accordance with the Interim County Assembly standing orders No.121(1).

Pursuant to provisions of Article 196(1) (b) of the Constitution of Kenya, the Health Services Committee facilitated public participation through forums held in 9 different stations within the County of Samburu from 24<sup>th</sup> February to 3<sup>rd</sup> March, 2016. The nine stations included South Horr town, Lesirikan town, Lodung'okwe, Baragoi, Kisima, Loosuk, Kisima town, Maralal town, Wamba as publicized in the Social media and public notice board on 23<sup>rd</sup> February 2016. During this exercise of public participation, the committee was able to collect from members of the public, various views on the Bill from all the above towns, as well as a memorandum from other members of the public who brought them to the Clerk of the County Assembly.

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The members of the committee also performed a presentation on the bill in Serian FM Radio station situated in Maralal. They got more insights and proposals which the committee considered for inclusion in the report.

The Health Services Committee would like to appreciate members of the public, who turned up in good numbers to give their input on the Bill as well as those who submitted a memorandum, not forgetting members of the County Assembly and the Assembly staff who committed themselves to make the whole exercise of public participation a success.

Despite the success of the public participation exercise, there was a concern on preparation and creating awareness to members of the public as far as the exercise is concerned. They urged the concerned parties that in future, they would like copies of the bill to be distributed to them early enough prior to public participation so that they can familiarize themselves with the contents of the bill and identify areas of input.

However, the public participation forums in some parts of the County were characterized by low turn outs; a fact that the Committee attributed to the short notice of the forums and inadequate mobilization of the public during the forums.

### **Public Participation Forums:**

#### **1. Submission by South Horr participants**

- The referral hospital and other sub-county hospitals should have enough personnel and well equipped with drugs.
- On the establishment of health facilities, they proposed to have at least two health centres in each ward depending on the diversity and should have a laboratory, enough medicines and ambulances.
- They proposed that on the appointment as a chairperson of a hospital, a person should possess a diploma and not a degree and should have at least two years of experience and not five as indicated in the bill.

- Every healthcare personnel should be entitled to a safe working environment.

## **2. Submission by Lesirikan participants**

Lesirikan participants were in total agreement with the Bill but they noted some few issues.

- The need to increase the number of health personnel, they should be respected and they should be provided with shelter within the health facilities.
- Ambulance services to be fully active and be standby day and night.

## **3. Submission by Baragoi participants**

Baragoi participants concerns were;

- At least three staffs in each health centre and at least three health centres in every ward.
- Each health centre should have a well-equipped laboratory and a lab technician.
- Ambulance services should be free.
- A budget should be set aside for construction of a Medical Training College that should serve the three sub counties.
- The chairperson of a dispensary should either possess a diploma or certificate and not a degree as it is in the bill.

## **4. Submission by Loosuk participants**

Loosuk ward participants observed the following issues;

- a) The participants proposed that the community based units should be prioritised.
- b) There should be a sub county referral and a teaching hospital in every sub county.
- c) The participants noted the need to have a dispensary in every sub-location.

- d) The county government should ensure that the drugs supplies are of good quality and should reach the facilities on time required.
- e) They also noted that three years is a very long time for audits, this should be done bi-annually or annually.

**5. Submission by Wamba participants**

Wamba participants noted that:

- a) Every private medical personnel should be licenced and provide evidence of certificates and testimonials to be able to provide services to the community at large.
- b) Provision of a dispensary in every sub-location.
- c) Private clinics have not been mentioned thus an act should be set aside or being placed to be able to control and coordinate the functions of the clinics.
- d) Appointment as a chairperson of a health centre, one should have a certificate and not a diploma.

**6. Submission by Archer's participants**

Archer's participants noted that:

- a) The ordering of drugs should be done before the stocks are out to facilitate the availability of drugs in the facility always (an Act should be placed).
- b) The health centres to be clearly established with all departments e.g. pharmacy, laboratory, wards, nutrition and proper staffing.
- c) Appointment of chairperson of a dispensary, one should have a certificate from a recognized institution and should be a resident of that location too.
- d) Section 11(d) on the committee of a health centre, it should be one person representing women, one representing disabled and one representing the youth.

- e) Each county health facility should be audited after every one year for transparency and better service delivery.

#### **7. Submission by Lodung'okwe participants**

The participants had the following inputs:

- a) Auditing process should be done annually.
- b) The number of personnel should be increased to enhance good services.
- c) On the management of the county health facilities, the person that shall be appointed as the CEC of health should be someone with a higher level of education, responsible/manager who can be able to take the responsibility of the facilities.
- d) There should be a provision for a dispensary in every sub-location.
- e) Section 6(2) on the recruitment of staff, the recruited staff should be put on permanent basis.
- f) There should be a clinical officer in every dispensary.

#### **8. Submission by Kisima participants**

Kisima participants had the following observations;

- a) Participants proposed that the procurement process and supply be done at the sub-county level.
- b) Audits should be done annually and not after every three years.
- c) The chairperson should have at least KCSE certificate because facilities on the local areas don't meet the criteria and should not be a health person or necessarily done any medical course.
- d) There should be a sub county referral hospital and a dispensary in very sub-location.



**9. Submission by Maralal participants.**

Maralal participants observed that:

- a) Maralal ward need seven dispensaries e.g. in every sub-location or village units. (classification)
- b) At least two facilities in every ward simply because of the population.(establishment)
- c) Removal from office. The CEC in charge of health should not be involved in the removal of a Chair; therefore the community should be empowered to do that.
- d) A patient should have a right to sue the health officer who gives wrong medication or advice or be rude to the patient. The patient should get right quality and right quantity of medication.

**Findings and Recommendation of the Committee**

**Committee Findings:**

That, in order for effective and efficient health services to be achieved, availability of drugs of high quality and well-staffed health facilities has to be achieved.

That, there is shortage of working ambulances in several health facilities hence emergency services for patients has not been realised leading to avoidable deaths.

That, in all wards there is a general feeling in the community that the health facilities are few so the proposed health facilities per ward is not enough though there was a general appreciation for the strides made in devolution era.

That, the county government has ignored the housing of medical personnel in this health facilities as most of these facilities are in remote areas where housing is a challenge.

That, literacy levels in the community is still low so the demand required by the bill on the chairperson's academic qualification is too high to be met with communities where these health facilities are in remote areas.

That, a code of conduct for medical staff who are rude and treat their patients in an inhumane way should be developed and clear channels of receiving grievances should be developed for each health centre.

That, all the health facilities need urgent staffing since there is shortage of health staffs in comparison to the patients who visit this health facilities.

That, the public needed fully equipped health facilities with laboratories and fully stocked in view of health equipment

That, the referral health facilities in both sub-county and county should be able to provide for full health services and not a further referral to other private health facilities which are expensive or other county referral health facilities.

That, the county executive committee member should be a person who is an experienced health practitioner and not a person who has little know how of the working of health facilities

**Committee Recommendations:**

That, the ministry adds model health centres from one per ward to two model health centres per ward due to the vast and remote areas in some wards.

That, the ministry should ensure enough staffing and supply of drugs to the new established health centres in this bill for good and quality service delivery.

That, due to remote location of some health centres in the wards, it is unreasonable to demand high qualifications to be the chairperson of a health centre due to low literacy levels in this

areas.

That, the health centres to be established in this bill should be a model health centre equipped with a laboratory and full emergency services that is a fully functional ambulance services.

**The Deputy Speaker**, (hon. Adamson Lanyasunya): Thank you hon. Members, the floor is now open for debate and contributions on the report.

**MCA Lodokejek Ward**, (hon. Jerias Leshoomo): Thank you hon. Speaker, I stand to support the report (*Applause*) as the committee did a wonderful job as reflected in the recommendations and if the report will be implemented as it is, the County will have modern health facilities and service delivery will be enhanced. I therefore urge the committee to follow up so that the report can be implemented to assist the health staff and the community at large, thank you.

*(Applause)*

**MCA Wamba West Ward**, (hon. Benjamin Leitore): Thank you hon. Speaker, I also stand to support the report but first, I wish to commend on what the committee has done. In this House, we had argued severally that this committee had failed on some of its roles before as stipulated in our Standing Orders. However, this is a proof that the committee has performed their role as stated in our Standing Orders.

This is a very good report and I call upon the committee to make sure that the department implements the report to the latter because in my ward which has 11 villages, a number of these villages do not have health facilities and there is a need for us the county government to make sure that if not two per village at least a dispensary should be there in a village in order to reduce the walking distance of our people looking for health services.

The Chair therefore should do something to make sure that part of the recommendations of the report also informs the budgetary allocation of the department to make sure that all these recommendations be implemented because it is our mandate to as the county government to make sure that health services are improved in Samburu and to make sure that the health services are brought closer to the people.

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So it is paramount that the Chair takes charge and see that the department put into the budget parts of these recommendations especially the establishment of the health services in our village units. I commend the effort of the committee and I fully support the report, thank you.

**MCA Suguta Marmar ward**, (hon. Shadrack Lesoipa): Thank you Mr. Speaker Sir for giving me a chance to contribute on the report. Although the Bill has been waited for long, I commend the work done by the committee in the public participation. The report is timely as this is the time that the House is going to deliberate on the budget. The House should make sure that some of the issues noted here are incorporated in our 2017/2018 budget so that the report can see the light of the day.

Model health centres are facilities that need a lot of money. There have been strikes of the staff all over the country and if personnel are provided in these facilities, health services will be improved in this county.

There is an issue on the recommendations that says *due to remote location of health centres in the wards, it is unreasonable to demand high qualification for the chairperson of health centres due to low literacy levels in this area*. The Chair can elaborate on that because it is not clear. I cannot see the qualification from the Bill for one to chair the sub-county committee. There is another issue of equipping laboratories which also requires budgeting so as to have a report that is well implemented.

Some of the sectoral committees bring very good reports but very few are implemented. There are always budgetary allocations and it is good that the report is brought when we are preparing the budget. It is prudent for this Committee to follow up with the departmental committees to incorporate such recommendations to have them implemented. I support the report and I urge the members to have these issues included in the budget so that health services can improved to the people of Samburu. Thank you.

**MCA Baawa ward**, (hon. Pius Lobuk): Thank you Mr. Speaker. I concur with the report and the Committee has done a lot of work and the community gave very pertinent contributions during

public participation. I also concur that after community contributions, they also need to see that the report is put into reality.

Secondly, there is one aspect that I need the committee to give priority in its implementation. That is the issue of medical training college which is a concept that is long overdue for the county to implement. I wonder how long we shall continue training our medical staff outside. Every county has established its own medical training college except Samburu. I don't see how we shall succeed in delivering medical services if we don't have our own medical training school. This county is independent like others with resources and I plead with the House to consider this issue in the coming budget. We can even slash some areas and consider this because it will be beneficial to our community. Thank you.

**MCA Elbarta ward**, (hon. Romano Leakono): Thank you hon. Speaker Sir. I also stand to support the Bill but with a few amendments. I am not seeing the representation of *Naserian* in the hospital board. We have 14 members who all seem to come from those working with the health facilities. Some stakeholders who are our local people who might not be working in any facility have been left out. I request that the committee takes note and add after (k) that two representatives of *Naserian* and also not forgetting the gender issue on persons who are beneficiaries of the facilities. We have the providers of the health services but we don't have the people who are treated in these facilities. It is fair that they are also represented. On the dispensary committees, there is a place that says *a diploma and a certificate*. I think we would go for a certificate if we consider the local people. If it is the medics, diploma is okay.

I would also like to commend the committee for the good work done. Medical training is one of the priorities that the county needs to think about. But it is something that can just support the Bill and it should not be put in the Bill. Thank you.

**MCA Nyiro ward**, (hon. Jonathan Lemoosa): Thank you Mr. Speaker Sir. I support the Bill and I appreciate the committee for the good work. I have a few issues that need some clarity. When the Bill talks about either a diploma or a certificate, is it in medical skills or any field? The Committee should state exactly what kind of certification they need.

I want to support the issue of KMTC in Samburu. Those of us who come from the semi-arid places, most of our dispensaries get challenges when non-locals try to give services. Most of the times, they stay for one or two months then they run away. The solution is putting up a training college which can be cheaper and train locals who would face no challenges when serving.

The Bill being financed at a go can have financial challenges because the budget is a process. The health department has its own proposals in the budget and it is prudent if the Chair and the CEC can find out what can be done now or progressively because a Bill has to take some time before it is implemented. This House has a committee, Implementation Committee, which sees the implementation of not only this Bill but also other bills passed in this House. I want to urge the committee to be pro-active when it comes to bills because we are seeing bills being passed but they are not fully implemented. Thank you.

**Chair, Public Health, Medical Services and Sanitation,** (hon. John Lemulugo): Thank you hon. Speaker. I take this opportunity to thank all the members who have supported the report. I sincerely thank the members of this Committee because they have done a wonderful job. A question on the qualifications was raised and I want to make it clear that the certificate should be from any field. Thank you.

**MCA Suguta Marmar ward,** (hon. Shadrack Lesoipa): Thank you Mr. Speaker and sorry for coming again. Before you give the way forward, I see that if a member is eligible under a sub-section or one should not be eligible as a chairperson of a health centre or dispensary unless one possesses a diploma from a recognized university. I can see a challenge because they are also saying that you can only be a member of that committee when you possess a certificate from a recognized university but you can only chair if you have a diploma. They are also citing at least three years in management, leadership or administration.

I am seeing some challenges ahead of us when trying to constitute these committees in our villages. There could be issues that may not augur well in the management of the facilities. Having a diploma person with a three year experience in management would be difficult to find such a person in the villages all the time hence difficult for them to understand issues affecting the local facilities... *(Interrupted by the Speaker)*

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**The Deputy Speaker,** (hon. Adamson Lanyasunya): Hon. Lesoipa, I am seeing that members are going towards discussing the Bill which is not yet. Let us just finish on the report and when the Bill comes, we will be able to make amendments and move forward. Are you through hon. Lesoipa?

**MCA Suguta Marmar ward,** (hon. Shadrack Lesoipa): Thank you Mr. Speaker. It is my worry that it might go unnoticed but it is good that I have highlighted it so that we can share.

**MCA Wamba East ward,** (hon. Jackson Lelenkeju): Thank you Mr. Speaker Sir. I join my colleagues who supported the report and as a member of the Committee, I want to highlight the concerns of my colleague from Suguta ward. We noted in the Committee's recommendation number three that says "*due to remote locations of some health centres in the wards, it is unreasonable to demand high qualifications to be the chairperson of the health centre due to low literacy levels in these areas*". You have no reason to worry because that recommendation takes care of your concern. Thank you.

**MCA Elbarta ward,** (hon. Romano Leakono): Thank you hon. Speaker Sir. I stand on a point of information because when a Bill is prepared and brought to the House, the recommendations of the members of the committee should be taken into consideration. We have views from the people, committee recommendations and the original Bill. It means that the Bill has to be married to the recommendations of the committee. Hon. Speaker, give us direction on that. Thank you.

**The Deputy Speaker,** (hon. Adamson Lanyasunya): When it comes to discussions on the Bill, the members will be able to prepare amendments if any then it would be changed. In case of any limitations on the report, just indicate whether you need to add anything on the report.

Thank you hon. Members, I think you have had ample time to deliberate on the report and the committee has had the views of the members especially on the composition of the health board which might be amended during the discussion of the Bill which will take care of the constitutional requirements in terms of gender and others.

I will now put the question **THAT**, pursuant to Standing Order number..... this House approved the report of the Committee on Medical Services, Public Health and Sanitation on Health Services Bill, 2016.

*(Question put and report approved)*

**THE SAMBURU COUNTY PERSONS LIVING WITH DISABILITY BILL, 2016.**  
**SAMBURU COUNTY GAZETTE SUPPLEMENT NUMBER 11 BILL NUMBER 6.**

**COMMITTEE OF THE WHOLE HOUSE**

**Chair**, (Hon. Adamson Lanyasunya): Thank you hon. Members. I take this opportunity to welcome you to the Committee of the Whole House to deliberate on the Samburu Gazette supplement Bill number 16, a Bill for introduction to the Samburu County Assembly for Persons Living with Disabilities Bill 2016 and I now call upon the Clerk to proceed with part one on the Preliminaries.

**PART 1- PRELIMINARIES**

(2) In this Act unless the context otherwise requires an aged person includes a person with a disability who has been forced into retirement from employment due to disability. Assistive devices and services means implements, tools and specialized services (including the services of qualified interpreters for the deaf and qualified teachers for the blind) provided to persons with disabilities to assist them in education, employment or other activities.

"Board" means the Samburu County Board for Persons with Disability established under section 5;

"County executive committee member" means a member in-charge of culture, social services and gender;

"Disability" includes any physical, sensory, mental, psychological or other impairment, condition or illness that has, or is perceived by significant sectors of the community to have, a substantial or long-term effect on an individual's ability to carry out ordinary day to day



activities;

"Discriminate" means to accord different treatment to different persons solely or mainly as a result of their disabilities and includes using words, gestures or caricatures that demean, scandalize or embarrass a person with a disability;

"Fund" means the County Development Fund for Persons with Disabilities established under this Act;

"Organizations for persons living with disability" means associations or societies formed for the purposes of rendering services to persons with disabilities; and

"Organizations of persons living with disability" means associations or societies formed by persons with disabilities for their welfare and protection.

The purpose and objects of the Act shall be —

- (1) the establishment of a County Board for persons living with disability;
- (2) the establishment of a fund for persons living with Disability;
- (3) setting out of the rights and privileges of persons with disabilities; and
- (4) Generally protect persons with disabilities from any form of discrimination and promote their welfare.

This Act shall apply within the jurisdiction of Samburu County.

**Chair,** (Hon. Adamson Lanyasunya): Thank you hon. Members for the discussions the read clauses. I therefore propose the question on the clauses 2, 3 and 4 be part of the Bill as read. It is your time to discuss on these clauses. I now put the question on the clauses read by the Clerk to be part of the Bill.

*(The question was put and passed)*

## **PART II—ESTABLISHMENT AND FUNCTIONS OF THE BOARD**

- 1.** (1) There is established the Samburu County Board for Persons Living with Disability.

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(2) The Board shall be a body corporate with perpetual succession and a common seal and shall in its corporate name be capable of suing and being sued, and acquiring, holding and disposing of movable and immovable property.

2. (1) The Board shall consist of the following members appointed by the County Executive Committee Member—

- (a) five persons nominated by representing persons with various disabilities within the County;
- (b) three members appointed from a panel of names submitted to the County Executive Committee Member by organizations for persons living with disability;
- (c) the director of social services who shall be the secretary of the Board; and
- (d) A representative of a non-governmental organization in the county.

(2) The County Executive Committee Member shall appoint one of the members appointed under subsection (1) (a) as the chairperson.

(3) The County Executive Committee Member shall appoint one of the members appointed under subsection (1) (b) as the vice-chairperson.

(4) The chairperson and the vice-chairperson shall be of the opposite gender.

(5) The Board shall appoint one of the members as a Treasurer in their first meeting.

(6) In nominating or appointing persons as chairperson and members of the Board, the County Executive Committee Member shall ensure that the process is carried out in an open and transparent manner and that: —

(a) The membership of the Board shall equitably represent the types of disabilities occurring in the county;

(b) Not more than two-thirds of the members are of the same gender; and

(c) The composition of the Board shall reflect the regional and ethnic diversity of the people of Kenya.

3. The chairperson, vice-chairperson and members shall hold office for a period not exceeding three years and shall be eligible for re-appointment for a further term not exceeding two years.

4. (1) The secretary shall—

(a) be an *ex-officio* member of the Board and shall have no right to vote at any

meeting of the Board;

- (b) subject to the direction of the Board, be responsible for day to day management of the affairs of the Board;
- (c) keep all the records of the Board;
- (d) in consultation with the Board, be responsible for the direction of the affairs and transactions of the Board, the exercise, discharge and performance of its objectives, functions and duties and the general administration of the Board;
- (e) be the representative of the department in the Board; and
- (f) Carry out any other function as may from time to time be assigned by the Board.

5. (1) The functions of the Board shall be —

- (a) to issue adjustment orders under the provisions of this Act;
- (b) to formulate and develop measures and policies designed to:-
  - (i) achieve equal opportunities for persons living with disability by ensuring to the maximum extent possible that they obtain education and employment, and participate fully in sporting, recreational and cultural activities and are afforded full access to community and social services;
  - (ii) co-operate with the National Government during the national census to ensure that accurate figures of persons living with disability are obtained in the country, for purposes of planning;
  - (iii) advise the County Executive Committee Member on the provisions of any National Legislation or agreement relating to the welfare or rehabilitation of persons living with disability and its benefits to the country;
  - (iv) recommend measures to prevent discrimination against persons living with disability;
  - (v) put into operation schemes and projects for self-employment or regular or sheltered employment for the generation of income by persons living with disability;
  - (vi) encourage and secure the rehabilitation of persons living with disability within their own communities and social environment;

(vii) encourage and secure the establishment of vocational rehabilitation centers and other institutions and other services for the welfare, rehabilitation and employment of persons living with disability; and

(viii) co-ordinate services provided in County for the welfare and rehabilitation of persons with living disability and to implement programs for vocational guidance and counseling;

**(c)** to register —

(i) persons living with disability;

(ii) institutions, associations and organizations, including those controlled and managed by the County Government and local authorities, that provide services for the rehabilitation and welfare of persons living with disability;

(iii) places at which services for the rehabilitation of persons living with disability are provided; and

(iv) persons living with disability whose condition requires constant medical attention for the purposes of availing subsidized medical services;

**(d)** to provide, to the maximum extent possible —

(i) assistive devices, appliances and other equipment to persons living with disability; and

(ii) access to available information and technical assistance to all institutions, associations and organizations concerned with the welfare and rehabilitation of persons living with disability, including those controlled and managed by the County Government;

**(e)** to consult with the County Government in the formulation of suitable curricula for vocational rehabilitation centres and other training facilities for persons living with disability;

**(f)** to make provision for assistance to students living with disability in the form of scholarships, loan programmes, fee subsidies and other similar forms of assistance in both public and private institutions;

**(g)** to assess and report to the County Executive Committee Member on the welfare and rehabilitation of persons living with disability and to advise on the relative priorities to be given to the implementation of those measures;

- (h) to consult with the County Government in the provision of suitable and affordable housing for persons living with disability;
- (i) to prepare budgetary annual estimates for presentation to the Chief Officer, department of social services;
- (j) generally to carry out measures for public information on the rights of persons living with disability and the provisions of this Act;
- (k) to perform such other functions in relation to the welfare and rehabilitation of persons living with disability as the Board may deem necessary; and
- (l) To perform such other functions as may be assigned to the Board under this or any other Act.

(2) Without prejudice to the provisions of subsection (1), the Board shall have power to do all things that are necessary or convenient to be done for or in connection with the performance of its functions and in particular—

- (a) to conduct inquiries into any matter relating to the welfare and rehabilitation of persons living with disability;
- (b) to constitute committees consisting of its members, and where necessary to co-opt experts to serve on such committees with the approval of the County Executive Committee Member;
- (c) to vest in or delegate to any committee constituted under paragraph (b) such of the functions of the Board as the Board may with the approval of the County Executive Committee Member determine; and
- (d) with the approval of the County Executive Committee Member, to engage or make other arrangements with any other person to carry out research on, or supply information on, any matter relating to the welfare and rehabilitation of persons living with disability.

**Chair,** (Hon. Adamson Lanyasunya): Hon. Members I now propose the question that clauses 5, 6, 7 and 8 be part of the Bill as read. If there are no amendments I now put the question that clauses 5, 6, 7 and 8 be part of the Bill.

***(The question was put and passed)***

**PART III—ESTABLISHMENT AND ADMINISTRATION OF THE FUND**

Establishment of the Fund      **6.** There is established the Samburu County Persons Living with Disability Fund.

Revenue and expenditure of the Fund      **7.** (1) There shall be credited to the Fund—

- (a) sums of money which may from time to time be voted by county assembly for that purpose;
- (b) sums which represent the repayment of the capital and interest of any loan granted by the Board;
- (c) any gifts, donations, grants and endowments made to the Fund; and
- (d) any sums of money borrowed by the fund with the approval of the county assembly

(2) There shall be paid out of the Fund any expenditure approved by the Board and incurred in connection with the administration of the Fund.

Use of the Fund      **8.** (1) The fund shall be used for—

- (a) providing assistive devices to persons living with disability;
- (b) provide loans to groups of persons living with disability as the Board may deem fit;
- (c) perform any other function of the Board in assisting persons living with disability; and
- (d) meeting any expenditure related to administration of the Fund:

Provided that not more than three per cent of the total monies consisting of the Fund shall be utilized for administration of the Fund.

Administration of the Fund      **9.** (1) The administration and management of the Fund shall be on the Board;

(2) The Secretary to the Board shall be the administrator to the fund.

(3) The signatories to the fund shall be the Chairperson, Treasurer and the Secretary to the Board.

**Chair,** (Hon. Adamson Lanyasunya): Hon. Members I now propose the question that clause 10, 11, 12 and 13 to be part of the Bill.

**MCA Maralal Ward,** (Hon. Elly Loldepe): Thank you hon. Speaker. I propose an amendment on clause: 11. (1)

(a) That reads the sum of money which may from time to time be voted by the County Assembly for that purpose. I propose that we insert the following words after the word purpose that “Not less than Kshs.10, 000,000 in any financial year. In the final Bill it should be read as:

(b)Sums of money which may from time to time be voted by county assembly for that purpose but not less than Kshs. 10,000,000 in any financial year. Hon. Speaker I know that people will think that this is a general Bill and the sums should not be specific. I am not specific but just putting a limit that the executive cannot come below. This is capping. This is so that it becomes clear in the mind of the people that as we propose this it does not mean that it will go so low because sometimes to provide a Bill without putting limitations on how it will be done may provide a leeway for budgeting for anything.

I recommend that amendment to that section. I am not sure to continue or give someone else because I had other amendments on section 12. Mr. Speaker give guidance on whether I should proceed to 12 since you read them as an entire part of three.

**Chair,** (Hon. Adamson Lanyasunya): Thank you hon. Elly. It is always good to dispense an amendment on a section or sub section because it needs to be seconded and after it is dispensed then you move to another amendment. I do not know the feeling of other Members but fixed budgetary projections or not less and not more than to my knowledge is not common in Bills.

As long as a fund has been created and passed by the Assembly then it would be upon the Committee like Culture and the Social Services Committee to propose an amount which can be

either this one or higher in any particular financial year. You are aware that in terms of the total development budget that we have as a County, a whole ward is not even able in terms of let us say the ward development fund is not able to reach Kshs.10.000.000. I do not think that it is advisable to put a figure in the Bill maybe the Chair can shed some light on that.

**MCA Nyiro Ward, (Hon. Jonathan Lemoosa):** I concur with Chair. This is only a Bill. There will be an administrative regulation that will guide this Bill on how to implement it. The Bill only gives a guide that there will be a fund just like the budgetary cycle the Assembly has the powers to allocate funds.

A Bill normally outlines what is outlined here, but I think it will be more practical to say that this goes to administrative policy because according to my experience I have never seen a Bill that directs an unpaid amount unless a specimen is brought before us. I think that that money can be little or more. It is good if we leave that pending to administrative policy. Thank you.

**The Deputy Speaker, (Hon. Adamson Lanyasunya):** There is a place that was read by the clerk which says that the Board is also mandated to assist in establishing some policies that will help implement the Bill. Unless you add some sub clauses after (d) which will maybe read (The Board with the collaboration of the department comes up with a regulation to implement the Bill.

**MCA Maralal Ward, (Hon. Elly Loldepe):** Thank you Chair. I said that we limit ourselves to some extent. It is allowable. I do not know which law is being referred to in this particular context. It is allowed in law that we can do capping. In this context we are leaving it as an open ended question. An open ended question means that you can do anything with them. Open ended in the sense that you can even say you can only afford Kshs.1 million anytime and that is too dangerous. We will be playing with people's minds that we have set a bill which is only there in terms of a paper but which is not actually addressing the needs.

This Bill identifies a gap, then it must size and get ways of addressing that gap and unless that is done clearly then we are giving loopholes. This capping by saying 'not less than', we could even say 'less than' and not 'more than'. This is a guideline and that is why I am saying specific

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amounts. This one is not very specific, it's only giving a guideline and I think that's what we need so that when bills are made, they offer guideline. It's not something that you can play with people's minds forever.

We have heard bills that have always been used not to the help of the people but actually to their detriment. That is why I was asking for guidance in this particular bill so that we are very clear. Maybe the Chair would have proposed so that we can also put something so that it doesn't go beyond the budgetary allocation. It's only putting a limit on the lower and not on the higher side. Thank you.

**The Deputy Speaker,** (Hon. Adamson Lanyasunya): Now the other dilemma is in terms of legality because the law requires that the amendment presented to the Clerk which should be approved by the Speaker.

**MCA Nyiro Ward,** (Hon. Jonathan Lemoosa): Chair, the more you or we delay on this bill, many things will pass. We are also going towards the election period and as you can see, it's ever hard to get members. Let's even take an example of the issue of Bursary Bill. There was nothing pegged in this. But it came through administrative policy. The Kshs.100,000,000 actually and I don't know where the fear of Mheshimiwa is because this particular bill is given power just like any other bill to this house but of course from time to time we can allocate funds, so there is no vacuum.

The house is in full control of monies actually being budgeted and there is no a time whereby maybe a million shillings can come from executive from the board when it has been established because I want to believe what we are doing today in Kenya is what we call itemized budget whereby this particular board will have its own budget that shall be approved by this house so the Kshs.1 million, the Kshs.2 million I don't know where it will come from, because this house is mandated actually to go through the budget before its actually implemented so I don't want to believe there will come a time where this board will be given less than what actually they have budgeted because it's the board the CEC, the CO of the department that will sit down and itemize and prioritize their needs then reflect on the budget thus to be approved in this house so I don't know where the dilemma should be. Thank you.

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**Specially Elected MCA, (Hon. Osman Dube):** Asante sana mwenyekiti, mimi naunga Mheshimiwa Elly mkono kwa kuwa tukipitisha hivi au vile itakua na bajeti ya shilingi milioni moja ambayo ni pesa kidogo zaidi na haitoshi walemavu wa Samburu County. Naomba kuwe na kama million kumi tuweke kwa kuwa wanajulikana ili tuanze mambo haya. Hilo ndilo ombi langu.

**Lodokejek Ward MCA, (Hon. Jerias Leshoomo):** Thank you hon. Chair, hon. Chair, I think the amendments that hon. Loldepe wanted to introduce is valid but he is out of order since he did not table the amendments as required by the Standing Orders of this house. The amendments are still valid we pass the Bill then the Member should introduce it at a later stage. The budget is in the process of tabling in this House and I think the member and honourable Dube are still in the house and I did a presentation although it was somehow late, since we also have the same issue on the quorum, maybe they also need to pull the house to quorum so that we can amend as necessary. Thank you.

**MCA Nyiro Ward, (Hon. Jonathan Lemoosa):** Chair, hon. Loldepe should apologise because hon. Leshoomo is not the Vice Chair of the Committee. Hon. Rebecca is. Now, our greatest fear is that the more we delay with this particular bill; alongside the budget process is actually being delayed. By 30<sup>th</sup>, on Thursday, budgets all over the country will be passed before that moment. We don't think we have the authority to compel the department from setting aside the funds for this particular bill. Do we pass this and then as a house, compel the departments through the budget because no money is actually allocated to the budget and become valid. It is a high time the board sits with the CEC or the CO, come up with a budget and then insert the department budgets to be financed. We are disadvantaging the disabled rather than doing them good. Let us be procedural and also trust this house has powers. Let us just give this particular bill to see the light of the day and fight for the money depending on the budget. Thank you.

**The Deputy Speaker, (Hon. Adamson Lanyasunya):** I will continue with the question because the only dilemma in the question is timing. As stated in the Standing Order number 121, when a

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bill is recommitted to the Committee of the Whole House, the committee should consider only the matters so recommitted which requires that the committed matters should be presented before the Clerk and approved by the Speaker. Any amendments can be introduced by any member, so it's not wrong for hon. Elly (Loldepe) to present any amendment as such. I will put a question that clauses 10, 12 and 13 be part of the bill as read.

*(Question put and motion passed)*

### **Rights of Persons living with Disability**

*“The County Government shall take steps to the maximum of its available resources with a view to achieving the full realization of the rights of persons with disabilities.*

*No person shall deny a person with a disability access to opportunities for suitable employment.*

*A qualified employee with a disability shall be subject to the same terms and conditions of employment and the same compensation, privileges, benefits, fringe benefits, incentives or allowances as qualified able-bodied employees. An employee with a disability shall be entitled to exemption from tax on all income accruing from the department.*

*The Board shall endeavor to secure the reservation of five percent of all casual, emergency and contractual positions in employment in the public and private sectors for persons with disabilities. Subject to the provisions of the Employment Act, persons with disabilities shall be eligible for engagement as apprentices or learners where their disability is not such as to impede their performance in particular occupations for periods for which they are hired.*

*Subject to subsection (2), no employer shall discriminate against a person with a disability in relation to; the advertisement of employment; the recruitment for employment; the creation, classification or abolition of posts; the determination or allocation of wages, salaries, pensions, accommodation, leave or other such benefits; the choice of persons for posts, training, advancement, apprenticeships, transfer, promotion or retrenchment; the provision of facilities related to or connected with employment; or any other matter*

*related to employment.*

*Notwithstanding subsection (1), an employer shall be deemed not to have discriminated against a person with a disability if: —*

*the act or omission alleged to constitute the discrimination was not wholly or mainly attributable to the disability of the said person;*

*the disability in question was a relevant consideration in relation to the particular requirements of the type of employment concerned; or*

*Special facilities or modifications, whether physical, administrative or otherwise, are required at the work place to accommodate the person with a disability, which the employer cannot reasonably be expected to provide.*

*A complaint by a person with a disability that his employer has discriminated against him in a way which is contrary to this Act may be presented to the Industrial Court through the appropriate trade union.*

*Any contract for employment or for provision of goods, facilities or services, or any other agreement, shall be void insofar as it purports to deny any person any rights or privileges conferred under this Act or in any other way to limit the operation of this Act.*

*An employer shall provide such facilities and effect such modifications, whether physical, administrative or otherwise, in the workplace as may reasonably be required to accommodate persons with disabilities.*

*A private employer who engages a person with a disability with the required skills or qualifications either as a regular employee, apprentice or learner shall be entitled to apply for a deduction from his taxable income equivalent to twenty five percent of the total amount paid as salary and wages to such employee: Provided that: Such an employer shall present proof certified by the Ministry responsible for labour in the county that the persons with disabilities in respect of whom he claims the deduction are under his employer; and the persons with disabilities so employed are accredited with the Board as to their disabilities, skills and qualifications.*

*A private employer who improves or modifies his physical facilities or avails special services in order to provide reasonable accommodation for employees with disabilities*

*shall be entitled to apply for additional deductions from his net taxable income equivalent to fifty percent of the direct costs of the improvements modifications or special services.*

*The Board shall establish and maintain a record of persons with disabilities who are in possession of various levels of skills and training and shall update such records regularly for the purposes of job placement.*

*No person or learning institution shall deny admission to a person with a disability to any course of study by reason only of such disability, if the person has the ability to acquire substantial learning in that course.*

*Learning institutions shall take into account the special needs of persons with disabilities with respect to the entry requirements, pass marks, curriculum, examinations, auxiliary services, use of school facilities, class schedules, physical education requirements and other similar considerations.*

*Special schools and institutions, especially for the deaf, the blind and the mentally retarded, shall be established to cater for formal education, skills development and self-reliance.*

*The Board shall work in consultation with the relevant agencies of County Government to make provisions in all districts for an integrated system of special and non-formal education for persons with all forms of disabilities and the establishment where possible of braille and recorded libraries for persons with visual disabilities.*

*The Board shall ensure that the implementation of the County health programme puts measures in place for: prevention of disability; early identification of disability; early rehabilitation of persons with disabilities; enabling persons with disabilities to receive free rehabilitation and medical services in public and privately owned health institutions; availing essential health services to persons with disabilities at an affordable cost; availing field medical personnel to local health institutions for the benefit of persons with disabilities; and prompt attendance by medical personnel to persons with disabilities.*

*(1) Persons with disabilities are entitled to a barrier-free and disability-friendly environment to enable them to have access to buildings, roads and other social amenities,*

*and assistive devices and other equipment to promote their mobility.*

*A proprietor of a public building or public service vehicle shall adapt it to suit persons with disabilities in such manner as may be specified by the Board.*

*All proprietors of public buildings shall comply with subsection within five years after this section comes into operation while operators of public service vehicles shall comply with subsection (2) within two years after this section comes into operation.*

*This section shall apply to: any premises to which members of the public are ordinarily admitted whether on payment of a fee or otherwise; and any services or amenities ordinarily provided to members of the public.*

*Without prejudice to the provisions of section 20, if the Board considers that premises, services or amenities are inaccessible to persons living with disabilities by reason of any structural, physical, administrative or other impediment to such access, the Board may, to that section, serve upon the owner of the premises or provider of the services or amenities concerned an adjustment order:*

*setting out—a full description of the premises, services or amenities concerned; and the grounds upon which the Board considers that the premises, services or amenities are inaccessible to persons living with disability;*

*requiring the owner or provider concerned to undertake at his own expense such action as may be specified in order to secure reasonable access by persons with disabilities to the premises, services or amenities concerned; and stipulating the period within which the action referred to in paragraph (b) shall be commenced and completed.*

*Before serving an order under subsection (2) the Board shall serve notice upon the person concerned—*

*specifying the ground upon which the adjustment order is to be issued and the nature of the action which the Board considers necessary to rectify the situation which has given rise to the proposed order;*

*stipulating the maximum period that the Board considers reasonable for the implementation of the action it proposes to order; and calling upon the person*

*concerned, if he wishes to do so, to make representations to the Board within thirty days from the date of the service of the notice.*

*After considering any representations described in subsection (3) (c) the Board may issue, or refrain from or defer the issuing of, an adjustment order.*

*Within thirty days after an adjustment order is confirmed or issued under subsection (4), the person concerned may appeal against the confirmation or issue to the High Court in the prescribed manner on grounds including on the grounds that—*

*he cannot reasonably be expected to bear the whole or' any part of the expense required in implementing the adjustment order;*

*the period stipulated for implementing the adjustment order is unreasonable;*

*the nature of the action required to be taken in terms of the adjustment order is, in the circumstances of the case, unreasonable; or*

*Adequate access to the premises, services or amenities concerned may be secured without recourse to the action required by the adjustment order.*

*No person shall, on the ground of disability alone, deny a person with a disability— admission into any premises to which members of the public are ordinarily admitted; or the provision of any services or amenities to which members of the public are entitled, unless such denial is motivated by a genuine concern for the safety of such person.*

*The proprietor of premises referred to in subsection (1) (a) shall not have the right, on the ground of a person's disability alone, to reserve the right of admission to his premises against such a person.*

*A person with a disability who is denied admission into any premises or the provision of any service or amenity contrary to subsection (1) shall be deemed to have suffered an injury and shall have the right to recover damages in any court of competent jurisdiction.*

*Without prejudice to subsection (3), damages awarded under that sub-section shall be recovered”.*

25. (1) The Board shall not serve an adjustment order upon —

- (a) any hospital, nursing home or clinic controlled or managed by Government or registered under the Public Health Act with the County Executive Committee Member responsible for health; or
- (b) any school or educational or training institution controlled or managed by the County Government or registered under the Education Act with the County Executive Committee Member responsible for the administration of that institution or Act concerned.

(2) Within sixty days after being requested to consent under subsection (1) the County Executive Committee Member shall either give or refuse his consent and if he so consents within that period the Board may proceed to serve the adjustment order as if the County Executive Committee Member had consented.

26. (1) All persons with disabilities shall be entitled, free of charge, to the use of sports facilities owned or operated by the County Government during social, recreational activities.

(2) Persons with disabilities shall be entitled to participate in all national and international sports events.

(3) For the purpose of subsection (2) the Ministry responsible for sports shall, in consultation with the Board, provide the necessary suitable environment including—

- (a) Architectural infrastructure;
- (b) Apparatus and equipment;
- (c) Training and medical personnel; and
- (d) Transportation facilities for the participants.

(4) Subsection (1) shall not apply in cases where there are exclusive private sports facilities.

27. (1) All persons living with disability shall be entitled at their request, to be assisted in their choice in voting in presidential, parliamentary and county elections.



- (2) A person who undertakes to render assistance under subsection (1) shall do so strictly in accordance with the instructions of the voter.
- (3) A person described in subsection (2) shall bind himself, in the prescribed form, to comply with that subsection.
- (4) Polling stations shall be made accessible to persons with disabilities during elections, and such persons shall in addition be provided with the necessary devices and assistive devices to facilitate the exercise of this right.
- (5) A person who contravenes sub-section (2) shall be guilty of an offence.
28. (1) The County Board shall register all organizations of or for persons living with disability.
- (2) All existing organizations of or for persons living with disability shall, within twelve months after this section comes into operation, apply in the prescribed manner to the Board for registration.
29. The rights set out under this Part are in addition to, and do not derogate in any way with the rights set out under Article 54 of the Constitution.

**The Deputy Speaker,** (Hon. Adamson Lanyasunya): Before I propose the question on other clauses as just read by the Clerk, I would like to read a clarification on the previous proposed amendment that when you read the Standing Order number 126 part 2, it says “*no amendment shall be moved to any part of the bill by any member other than the member in charge of the Bill unless written notification of the amendment shall be given to the clerk 24 hours before the commencement of the sitting at which part of the bill is considered in the committee*”.

That part is very clear because it is good to follow the Act or the Standing Orders. Clerk to continue reading up to clause 32.

#### ***Privileges of Persons living with Disabilities***

30. (1) All persons living with disability who are in receipt of an income may apply to the County Executive Committee Member responsible for finance for exemption from income tax and any other levies on such income.

(2) The County Executive Committee Member responsible for finance shall, in consultation with the Board, assess all applications received under subsection (1) and make such order thereon, if any, as he deems fit, exempting the applicant wholly, or to the extent provided by the order, from income tax or other levies specified therein, and any such order shall, notwithstanding the provisions of any other Act, have effect according to its terms.

(3) Materials, articles and equipment, including motor vehicles, that are modified or designed for the use of persons living with disability shall be exempt from import duty, value added tax, demurrage charges, port charges and any other County government levy which would in any way increase their cost to the disadvantage of persons living with disability.

(4) All goods, items, implements or equipment donated to institutions and organizations of or for persons with disabilities shall be exempt from import duties, value added tax, demurrage charges, port charges and any other government levy which would in any way defeat the purposes of or increase the cost of the said donations.

31. (1) Any donations, bequest, subsidy or financial aid which may be made to the county government agencies involved in the rehabilitation of persons living with disability or to organizations involved in such rehabilitation and registered with the Board for the purposes of this section shall, subject to the provisions of the Income Tax Act, be allowed as deductions from the donor's gross income for the purpose of computing taxable income.

(2) The County Executive Committee Member responsible for finance in the county or other appropriate authority shall endeavor to provide, subject to the provisions of any other relevant law, incentives to local manufacturers of technical aids and appliances used by persons living with disability including, but not limited to, the following—

(a) additional deductions for labor expenses;

- (b) tax and duty exemptions on imported capital equipment;
- (c) tax credits on domestic capital equipment;
- (d) simplified customs procedures;
- (e) unrestricted use of consigned equipment;
- (f) employment of foreign nationals;
- (g) exemptions from taxes and duties on raw materials; and
- (h) Access to bonded manufacturing systems.

32. The County Executive Committee Member may liaise with the department responsible for matters relating to credit unions, co-operatives and other lending institutions to put in place measures to encourage the extension by such institutions of credit to persons living with disability.

**The Deputy Speaker, (Hon. Adamson Lanyasunya):** I now propose the question that clauses 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, and 32 be part of the bill.

*(The question was proposed and passed)*

#### **PART V—MISCELLANEOUS**

33. (1) A person is guilty of an offence if the person—
- (a) fails to comply with an adjustment order issued under this Act;
  - (b) discriminates against a person with disability to this Act; or
  - (c) On the ground of any ethnic, communal, cultural or religious custom or practice, discriminates against a person with a disability.
- (2) A person who is convicted of an offence under subsection (1) is liable to a fine not exceeding twenty thousand shillings or to imprisonment for a term not exceeding one year or to both such fine and imprisonment.
- (3) A person found guilty of an offence under this section may in addition to the penalty imposed by the court be ordered to pay the person injured by the

offence such sums of money in compensation as the court may deem appropriate.

34. (1) No parent, guardian or next-of-kin shall conceal any person living with a disability in such a manner as to deny such a person the rights set out under this Act or any other law.

(2) A person who contravenes subsection (1) is guilty of an offence and is liable on conviction to a fine not exceeding twenty thousand shillings or to imprisonment for a term not exceeding one year or to both such fine and imprisonment.

35. (1) Any person who, being a doctor or other medical practitioner, negligently causes a disability to a patient is guilty of an offence and is liable on conviction to a fine not exceeding one hundred thousand shillings or to imprisonment for a term not exceeding one year, or to both such fine and imprisonment.

(2) The court may order a doctor convicted under this section to pay to the patient such sums of money in compensation as it may deem appropriate.

36. A person is guilty of an offence if the person knowingly gives false information to the Board for the purpose of being registered or for the purpose of acquiring any privilege or right due to persons so registered.

37. A person found guilty of an offence under this Act for which no penalty is expressly provided shall be liable to a fine not exceeding ten thousand shillings or imprisonment for a term not exceeding one year, or both such fine and imprisonment.

38. (1) The Board may cause to be taken appropriate legal action if the Board believes that—

(a) a person or group of persons is engaged in a practice which is discriminatory under this Act; and

(b) The discrimination is a significant and substantial infringement of the rights of persons living with disability and raises issues of public

interest.

39. The County Executive Committee Member may make regulations generally for the better carrying out of the provisions of this Act and, without limiting the generality of the foregoing, may make regulations —

- (a) prescribing the procedures, forms and fees applicable under this Act;
- (b) specifying and describing the nature of acts of discrimination against persons living with disability; and
- (c) Prescribing the procedure and forms for persons entitled to subsidized medical care under this Act.

**MCA Wamba West ward**, (Hon. Benjamin Leitore): Honorable members, I now propose the question that clauses 33, 34, 35, 36, 37, 38 and 39 be part of the bill.

*(The question was put and passed)*

#### **PROVISIONS AS TO THE CONDUCT OF BUSINESS AND AFFAIRS OF THE COUNTY BOARD**

1. A member of the County Board may—

- (a) resign his office by notice in writing to the County Executive Committee Member; or
- (b) be removed by the County Executive Committee Member by notice in writing if he: —
  - i. is subject to a vote calling for his removal by a two thirds majority of all members of the County Board;
  - ii. has been absent from five consecutive meetings of the County Board without permission of the chairperson;
  - iii. is so incapacitated by prolonged physical or mental illness as to be unable to attend to and perform his duties;
  - iv. is an undischarged bankrupt;
  - v. is convicted by a Court of an offence punishable

by a term of imprisonment; or

vi. is otherwise unable or unfit to discharge his functions.

2. Where the office of a member becomes vacant, the vacancy may with the approval of the County Executive Committee Member be filled through the majority vote of the members for the remainder of the term.
3. The County Board shall pay to its members such remuneration as the Salaries and Remuneration Commission may recommend through the County Public Service Board.
4. The County Board shall meet not less than four times in every year and not more than four months shall elapse between the date of one meeting and the date of the next meeting.
5. A meeting of the County Board shall be held on such date and at such time as the County Board shall decide, or in the absence of such a decision if the chairperson decides that a meeting is necessary, on a date and at a time determined by the chairperson.
6. Unless otherwise decided by a two-thirds majority of the members of the County Board, at least fourteen days' written notice of every meeting of the County Board shall be given to every member of the County Board.
7. The quorum of a meeting of the County Board shall be two-thirds of the members.
8. (1) The chairperson, or in his absence, the vice- chairperson, shall preside at every meeting of the County Board.  
(2) In the absence of both the chairperson and vice- chairperson, the members present may choose one of the members to preside the meeting.
9. A decision of the majority of members of the County Board present at any meeting of the County Board shall be deemed to be the decision of the County Board and if upon any question the voting shall be equal, the chairperson, vice-chairperson or other person presiding shall have a second and casting vote.

10. No Act, decision or proceedings of the County Board shall be invalid on account of a vacancy in the membership thereof or on account of the appointment of a member of the County Board being defective.

**MCA Wamba West ward**, (Hon. Benjamin Leitore): Hon. Members, I now propose the question that schedules 1, 2, 3, 4, 5, 6, 7, 8, 9 and 10 be part of the Bill.

*(The question was put and passed)*

**THE SAMBURU COUNTY PERSONS LIVING WITH DISABILITY BILL,  
2016**

*A Bill for AN ACT of County Assembly of Samburu to establish the County Board and a Fund for Persons with Disability; provide for the rights and privileges of persons living with disability; ensure equalization of opportunities for persons with disability and for connected purposes.*

*(Normal house resumes)*

**The Deputy Speaker**, (Hon. Adamson Lanyasunya): Thank you hon. Members, the time being 22 minutes to 6 o'clock and there being no other business, this assembly stands adjourned until Wednesday, 29<sup>th</sup> March, 2017 at 9 am.





