

THE PERSONS WITH DISABILITIES ACCESS TO EQUAL HEALTH SERVICES AND FACILITIES ORDINANCE 2014.

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A BILL FOR AN ORDINANCE

ENTITLED

THE MBARARA DISTRICT PERSONS WITH DISABILITIES ACCESS TO EQUAL HEALTH SERVICES AND FACILITIES ORDINANCE 2014

An ordinance to ensure that persons with disabilities access equal health services and facilities in all health units in the District of Mbarara and to provide for other matters connected therewith.

Date of assent:

Date of Commencement:

BE IT ORDAINED by the Council of the District of Mbarara as follows: -

1. Commencement.

This Ordinance shall come into force on a date appointed by the District Local Government Council by declaration.

2. Short title.

An ordinance to provide for access to equal health services and facilities to persons with disabilities.

3. Interpretation

In this ordinance the following words and phrases shall have the definition assigned to them in this section:

‘Auxiliary aids and services’ include qualified readers, interpreters and guides, taped texts, audio visual and pictorial recording; braille equipment, large print and brailled materials; tactile equipment, orthopedic appliance and other devices and services that support PWDs to participate effectively in all aspects of life;

‘Communication’ includes languages, display of text, braille, tactile communication, large print, accessible multimedia as well as written, audio, plain language, human-reader and augmentative and alternative modes, means and formats of communication, including accessible information and communication technology;

‘Discrimination on the basis of disability’ means any distinction, exclusion or restriction on the basis of disability which has the purpose or effect of impairing or nullifying the recognition, enjoyment or exercise, on an equal

basis with others, of all human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field. It includes all forms of discrimination, including denial of reasonable accommodation;

‘District Local Government Council’ means the District Council of Mbarara.

‘Language’ includes spoken and signed languages and other forms of non spoken languages;

‘Lower Administrative Units’ means Village, Parish and County Councils.

‘Person with disabilities’ include persons who have long-term physical, mental, intellectual or sensory impairment which in interaction with various barriers may hinder their full and effective participation in society on an equal basis with others;

‘PWDs’ means Persons with Disabilities.

‘Reasonable accommodation’ means necessary and appropriate modification and adjustments not imposing a disproportionate or undue burden, where needed in a particular case, to ensure to persons with disabilities the enjoyment or exercise on an equal basis with others of all human rights and fundamental freedoms;

‘Subordinate Local Government Council’ means Sub-County Local Government Councils within the District of Mbarara.

‘Universal design’ means the design of products, environments, programmes and services to be usable by all people, to the greatest extent possible, without the need for adaptation or specialized design. **‘Universal design’** shall not exclude assistive devices for particular groups of persons with disabilities where this is needed.

4. Objects of the Ordinance.

The objects of this Ordinance are –

- (a) To ensure that people with disabilities have access to equal health services and facilities with other persons without disability.
- (b) To promote health for persons with disabilities.
- (c) To ensure that all organs and agencies of the District Local Government Council and all Subordinate Local Government Councils and Administrative Units and all persons, natural and legal, respect, uphold,

promote and protect the fundamental and other human rights and freedoms of persons with disabilities with regard to health.

- (d) To alienate all forms of discrimination against persons with disabilities in matters of health.
- (e) To promote dignity and equal opportunities to persons with disabilities in matters of health generally.
- (f) To ensure the participation of persons with disabilities in all aspects of life as equal citizens in the District.

5. Determination of Disability.

Where it is necessary, for purposes of this Ordinance to determine whether a person is in fact a person with a disability this determination may be undertaken with the assistance of a medical doctor with relevant expertise, provided that in addition this medical opinion, all relevant factors will be taken into account, and in particular, the whole range or barriers which may hinder that person's full and effective participation in society on an equal basis with others.

6. Disability Fund.

- (1) Upon the coming into force of this Ordinance, the District Local Government Council and all Subordinate Local Government Councils and Administrative Units shall establish a fund to be known as the Disability Fund, to be charged on the Treasury of the relevant Council or administrative unit as the case may be.
- (2) The Secretary responsible for Disability Fund shall ensure that the Disability fund shall be used exclusively for the welfare of persons with disabilities which shall include but shall not be limited to, supporting the provision of services to persons with disabilities including education, health, care, social assistance and protection and ensuring accessibility for persons with disabilities.
- (3) The Disability Fund shall be established without prejudice to the general protection and provision for persons with disabilities, on an equal basis with others, in the relevant budget.

7. Consultation with Persons with Disabilities.

Without prejudice to any specific duties to consult any officials, persons or entities in this Ordinance, any person of entity charged with implementing any provision of this Ordinance or developing any plans or regulations hereunder will at all times closely consult with and actively

involve persons with disabilities, including children with disabilities through their representative organizations.

8. Right to health

- (1) Persons with disabilities shall enjoy the right to the enjoyment of the highest attainable standard of health without discrimination on the basis of disability.
- (2) The Secretary responsible for health shall take all appropriate measures to ensure access for all persons with disabilities to health services that are gender-sensitive, including health related rehabilitation. In particular, the Secretary shall take all necessary measures to:-
 - (i) Provide persons with disabilities with the same range, quality and standard of free or affordable health care and programmes as provided to other persons, including in the area of sexual and reproductive health and population –based public health programmes;
 - (ii) Provide those health services needed by person with disabilities specifically because of their disabilities, including early identification and intervention as appropriate, and services designed to minimize and prevent further disabilities, including among children and older persons.
 - (iii) Provide health services as close as possible to people's own communities, including in rural areas.
 - (iv) Provide assisted living and home-based care for persons with mental disabilities as opposed to institutionalization.
 - (v) Require health professionals to provide care of the same quality to persons with disabilities as to others, including on the basis of free and informed consent by, inter alia, raising awareness of the human rights, dignity, autonomy and needs of person with disabilities through training and the promulgation of ethical standards for public and private health care.
 - (vi) Prohibit discrimination against persons with disabilities in the provision of health and life insurance.
 - (vii) Prevent discriminatory denial of health care or health services or food and fluids on the basis of disability.

- (3) The purchase, importation, transfer or gift of health materials or equipment related to disabilities shall be exempted from tax, duties, surcharges or levies.
- (4) The Secretary responsible for health shall ensure that;
 - (i) Sign language and tactile is included into the curriculum for medical personnel;
 - (ii) Interpreters are included in hospital organization structure;
 - (iii) Labels on drugs are pre-brailed
 - (iv) Information, including drug labels, is provided in an easy to read format.
- (5) The Secretary responsible for health shall take all applicable measures to provide persons with disabilities with subsidized medical and health services including general medical needs.

9. Physical access to health

- (1) The provisions of this Ordinance relating to physical accessibility shall apply to providers of health services both in the public and private sector and includes entities offering health services even when these are informal.
- (2) Any person, corporation or private individual offering health services shall offer such services in a place and manner accessible to person with disabilities or offer alternative accessible arrangements for such individuals.
- (3) Any person, corporation or private establishment which offers health services open to the public shall ensure that facilities at such establishments are accessible to persons with disabilities and shall ensure that the services they offer are as inclusive as is reasonably possible for use by persons with disabilities, taking into account the gender and related needs for persons with disabilities.

10. Prohibition of discrimination from health services

- (1) A person shall not discriminate a person with disability to deny him or her health services on the ground of his or her disability.
- (2) An insurance service provider shall not discriminate a person with disability in the provision of health insurance or life insurance, which shall be provided in a fair and reasonable manner;
- (3) A person shall discriminate a person under sub section (1)-
 - (a) If he or she refuses or fails to admit or treat such a person because of that person's disability.

- (b) If the terms or conditions of admission to the health facility excludes person with disabilities.
- (c) By denying or limiting access to any benefit or service provided by the health facility to a person with a disability.
- (d) By discharging a person because of his or her disability.
- (e) By subjecting a person with disability to any other unfair treatment, relating to his or her disability.
- (f) By failing to take reasonable steps to ensure that the health facility is accessible for person with disabilities in accordance with the provisions of this Ordinance.

11. Appropriate Health Services,

The Secretary of health shall take all necessary measures to provide appropriate health services required by all persons with disabilities, including but not limited to.

- (a) Providing access to reproductive health services which are relevant to women with disabilities.
- (b) Enforcing user friendly hospital materials, for use by persons with disabilities visiting hospitals.
- (c) Encouraging population based public health programmes relevant to persons with disabilities.

12. Measures of Habilitation and Rehabilitation

- (1) The Secretary responsible for health shall take all effective and appropriate measures, to ensure that persons with disabilities attain and maintain maximum independence, full physical, mental, social and vocational ability, and full inclusion and participation in all aspects of life.
- (2) The secretary responsible for health, in consultation with the Secretaries responsible for Employment, Education and Social Services shall organize, strengthen and extend habilitation and rehabilitation services and programmes, particularly in the areas of health, employment, education and social services so as to ensure that these services and programmes:-

- (i) Begin at the earliest possible stage and are based on the multidisciplinary analysis of individual needs and strengths; and
 - (ii) Support participation and inclusion in the community and all aspects of society, are voluntary and are available to persons with disabilities as close as possible to their own communities, including in rural areas.
- (3) In particular, the secretary responsible for Health and for Science and Technology shall –
- (i) Promote the research, exploration and application of new habilitation and rehabilitation technology so as to provide more effective habilitation and rehabilitation services for persons with disabilities.
 - (ii) Provide habilitation and rehabilitation services in hospitals and communities and carry out clinical practice and training, scientific research, personnel training and work of technical guidance in the field of habilitation and rehabilitation; and
 - (iii) Provide various forms of technical training for personnel engaged in habilitation and rehabilitation work, popularize knowledge of habilitation and rehabilitation among persons with disabilities, their family members, relevant staff and volunteers and teach them up-to-date methods of habilitation and rehabilitation.
- (4) The Secretary responsible for Health, in consultation with the Secretary responsible for Education, shall ensure that medical institutions and other relevant educational institutes offer curricula and specialties on habilitation and rehabilitation.

13. Vocational and professional rehabilitation and employment.

The Secretary responsible for health and education shall ensure the provision of vocational and professional rehabilitation services to develop the skills and potentials of persons with disabilities to enable them compete favourably for available productive and remunerative employment opportunities in the labour market.

14. Offences and Penalties

- (1) Unless otherwise provided, a person who contravenes any provision of this Ordinance commits an offence and shall be liable on conviction to a fine not exceeding one hundred currency points.

- (2) A person who knowingly aids another person to commit an offence under sub-section (1) shall on conviction be deemed to have committed the offence.
- (3) For the avoidance of doubt any person who commits an offence under sub-section (1) which offence is an offence and is punishable under any other law, that person may be punished under the other law.
- (4) A currency point represents the amount in Uganda Shillings prescribed in the Schedule to this Ordinance.

15. Burden of Proof in Discrimination Cases

Where a person with disability establishes, before a Court or other competent authority, facts from which it may be presumed that they have suffered direct or indirect discrimination, it shall be for the respondent to prove that such person has not in fact been discriminated against.

Schedule.

One currency point is equivalent to Twenty thousand Uganda Shillings.