REPUBLIC OF KENYA

MINISTRY OF HEALTH

THE JARAMOGI OGINGA ODINGA TEACHING AND REFERRAL HOSPITAL

REGULATORY IMPACT STATEMENT FOR THE JARAMOGI OGINGA ODINGA TEACHING AND REFERRAL HOSPITAL ORDER, 2025 MADE PURSUANT TO THE STATE CORPORATIONS ACT (CAP. 446)

The Ministry of Health has prepared this Regulatory Impact Statement (RIS) under Sections 6 and 7 of the Statutory Instruments Act, Cap 2A.

April 2025

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ABBREVIATIONS

IGRTC	Intergovernmental Relations Technical Committee
JOOTRH	Jaramogi Oginga Odinga Teaching and Referral Hospital
KMPDU	Kenya Medical Practitioners, Pharmacists and Dentists Union
KNUN	Kenya National Union of Nurses
LREB	Lake Region Economic Bloc
PSC	Public Service Commission
RIS	Regulatory Impact Statement
SAGA	Semi-Autonomous Government Agency
SRC	Salaries and Remuneration Commission
UHC	Universal Health Coverage

CHAPTER 1: INTRODUCTION

1.1 Purpose of the Regulatory Impact Statement

This Regulatory Impact Statement (RIS) has been prepared per the provisions of the Statutory Instruments Act (Cap. 2A). It evaluates the expected impact of the legal order elevating Jaramogi Oginga Odinga Teaching and Referral Hospital (JOOTRH) as a National Referral Hospital (Level 6) under the Jaramogi Oginga Odinga Teaching and Referral Hospital Order, 2025.

A Regulatory Impact Statement is a structured policy tool that assesses the benefits, costs, and overall effects of proposed statutory instruments. It supports evidence-based decision-making by evaluating feasible regulatory and non-regulatory options, intending to identify the approach that delivers the greatest net public benefit.

Sections 6 and 7 of the Statutory Instruments Act require that, where a proposed statutory instrument is likely to impose a significant cost on all or part of the community, the responsible regulation-making authority must prepare a Regulatory Impact Statement before its enactment. The purpose of these Sections is to ensure that the legal Order is justified and backed by a comparison of options and selection of the most efficient and effective one.

In compliance with these provisions, this RIS includes:

- A statement of the objectives of the proposed statutory instrument and the reasons behind them.
- An explanation of its expected effects, including any amendments to existing statutory instruments.
- A review of alternative approaches to achieving the same objectives.
- An assessment of the associated costs and benefits of both the proposed instrument and alternatives.

- Justifications for rejecting other options.
- Any additional matters required under the Act; and
- A draft of the proposed statutory instrument.

Additionally, Section 5 of the Act mandates that public consultation be conducted to engage stakeholders and experts in relevant fields and provide affected persons with a meaningful opportunity to comment on the proposal. This makes the RIS a record of participatory law-making, ensuring the statutory instrument reflects public input and reduce resistance to implementation.

Together, these sections ensure that this RIS is consultative, justified, efficient and targeted at addressing the core issue.

1.2 Regulation-Making Authority and Legal Mandate

The proposed Jaramogi Oginga Odinga Teaching and Referral Hospital (JOOTRH) Order, 2025, is grounded in a robust legal framework. It is made according to:

- Section 3(1) of the State Corporations Act (Cap. 446), which empowers the President to establish a public institution as a State Corporation; and
- Section 25(1) of the Health Act, 2017, which allows the designation of a health facility as a national referral hospital.

Additionally, the Cabinet Secretary for Health is the designated authority under both the Health Act, 2017 and the Statutory Instruments Act (Cap. 2A), responsible for formulating and enacting statutory instruments relating to the classification, governance, and administration of health institutions in Kenya.

Accordingly, the JOOTRH Order, 2025 provides for the reclassification of the hospital as a National Teaching and Referral Hospital (Level 6) and its elevation to a State Corporation under the Ministry of Health.

1.3 Implementation Framework for Transition

The implementation of the JOOTRH Order will adopt a **phased and coordinated approach**, guided by intergovernmental cooperation and statutory provisions. The framework will address institutional realignment, human resource transition, and establishment of the hospital as a State Corporation.

a) Institutional Transition from County to National Government

The transfer of JOOTRH from the County Government of Kisumu to the National Government will be guided by:

- Article 187 of the Constitution of Kenya, which permits the transfer of functions between levels of government by mutual agreement.
- The Intergovernmental Relations Act of 2012, which outlines the principles of consultation, cooperation, and coordination between governments.
- Oversight and facilitation by the Health Sector Intergovernmental Consultative Forum and the Intergovernmental Relations Technical Committee (IGRTC).

A formal intergovernmental agreement will be developed to facilitate the orderly transfer of assets, liabilities, personnel, infrastructure, and service functions.

b) Human Resource Transition

The transition of personnel currently employed under the County Government of Kisumu and stationed at JOOTRH will follow a structured and transparent process, guided by:

- The Employment Act, 2007 and Labour Relations Act, 2007.
- Policy directives from the Public Service Commission (PSC) and the Salaries and Remuneration Commission (SRC).

- Consultations with relevant trade unions, including the Kenya Medical Practitioners, Pharmacists and Dentists Union (KMPDU) and the Kenya National Union of Nurses (KNUN).

Employees will be offered the opportunity to transition to the national entity, subject to a comprehensive human resource audit and alignment with national public service standards. A Joint Transition Committee will be constituted to oversee the process and ensure fairness, continuity, and minimal service disruption.

c) Establishment of JOOTRH as a State Corporation

The Order establishes JOOTRH as a state corporation, granting it greater administrative and financial autonomy. This transition provides JOOTRH's Board of Management with increased authority over organizational structures and operational decisions, with the autonomy also expected to improve efficiency and service delivery in alignment with the hospital's strategic goals.

Upon gazettement, JOOTRH will be formally constituted as a State Corporation under the State Corporations Act (Cap. 446). The Ministry of Health will spearhead the institutional setup through the following steps:

- Establishing a governance structure, including the appointment of a Board of Management.
- Developing a transitional strategic plan aligned with national health priorities.
- Standardizing operations, policies, and procedures in line with those of other national referral hospitals.

This implementation framework will ensure a smooth and well-governed transition, enabling JOOTRH to fulfill its new mandate as a premier National Teaching and Referral Hospital under the Ministry of Health.

1.3 Requirements of the Statutory Instruments Act

The Act requires that every statutory instrument be accompanied by a RIS that

- Demonstrates the need for the proposed subsidiary legislation.
- Outlines the objectives and intended effects.
- Assesses alternative options and justifies the preferred one.
- Describes stakeholder consultations and public participation.
- Analyzes the economic, social, and environmental impacts.

CHAPTER 2: BACKGROUND AND CONTEXT

Jaramogi Oginga Odinga Teaching and Referral Hospital (JOOTRH) has a rich and historic legacy spanning over a century. Established in the early 1900s in the then Port Florence (now Kisumu), the hospital was initially created to serve the health needs of African workers in the colonial railway and port sectors. Its

establishment was primarily driven by the high burden of tropical diseases, especially malaria, in the region.

In contrast, due to racial segregation during the colonial period, Victoria Hospital was established in 1932 to serve the European population[1]. After independence, this facility was later handed over to the Catholic Church and subsequently reverted to the government. It now functions as the amenity wing of JOOTRH, reflecting the hospital's continued evolution and expansion.

Commissioned in its current form in 1969, JOOTRH has undergone significant development over the decades. Initially functioning as a Provincial General Hospital, it steadily grew in capacity and scope to become the premier referral facility in the Lake Region Economic Bloc (LREB), serving over 10 counties in Western, Nyanza, and parts of Rift Valley, with an estimated catchment population exceeding 10 million people.

Following the advent of devolution in 2013, JOOTRH was transferred to the County Government of Kisumu. Since then, the county government has invested heavily in infrastructure, expanded inpatient and outpatient capacity, and supported specialized service delivery. The hospital has also evolved into a teaching and referral institution, partnering with Maseno University and other institutions to train medical professionals, including doctors, nurses, and clinical officers.

Despite these advancements, the current status of JOOTRH as a County Referral Hospital (Level 5) is no longer commensurate with its growing role and regional significance. The demand for specialized services, the burden of non-communicable and communicable diseases, and the hospital's function as a training center underscore the need for elevation to a National Teaching and Referral Hospital (Level 6).

[1] https://jootrh.go.ke/about-2/

This status upgrade is necessary to:

- Align the hospital's mandate with national referral service standards.
- Attract increased national investment and specialized personnel.
- Formalize its role as a tertiary teaching and training institution.
- Enhance service delivery to a rapidly growing and underserved regional population.

The proposed Jaramogi Oginga Odinga Teaching and Referral Hospital Order, 2025, therefore, seeks to legally anchor this transition and establish JOOTRH as a State Corporation under the Ministry of Health, enabling it to better respond to regional health demands, expand its teaching capacity, and support Kenya's universal health coverage agenda[2].

CHAPTER 3: EVALUATION OF THE PROBLEM

JOOTRH is the primary referral facility for the Nyanza and Western Kenya region, serving a catchment population of over 10 million people across more than 10 counties. JOOTRH currently serves a catchment population far beyond Kisumu County, extending to the broader Lake Region Economic Bloc (LREB), parts of

[2] https://www.mygov.go.ke/kisumus-jootrh-joins-kenyas-top-tier-hospitals-following-cabinet-approval

Rift Valley, Western Kenya, and cross-border patients from Uganda and Tanzania[3].

The hospital functions as a referral point for lower-level health facilities in the region, and its affiliations with multiple academic institutions, including Maseno University, Jaramogi Oginga Odinga University of Science and Technology (JOOUST), and the Kenya Medical Training College (KMTC), make it a clinical training ground and research hub.

Over the years, JOOTRH has made significant investments in infrastructure, human resources, and specialized services, including:

- Oncology, renal, and critical care units.
- Emergency response and trauma services.
- Teaching and clinical research facilities.

However, operating under a county structure limits its ability to scale services, attract and retain specialist personnel, and procure essential equipment efficiently. With the legal order to elevate its status to a national level, the goal is to enable JOOTRH to unlock greater resources to operate at its full potential.

While its functional capacity is as a national-level institution, JOOTRH lacks legal recognition as a Level 6 hospital. This constrains its ability to:

- Access national funding streams.
- Attract and retain specialized human resources.
- Expand its research and training functions.

Elevating its status will ensure the provision of high-level specialized healthcare services closer to the people, reducing the overwhelming pressure on Moi Teaching and Referral Hospital which is already overburdened.

[3] https://www.linkedin.com/company/lake-region-economic-bloc/?originalSubdomain=ke

- As a Semi-Autonomous Government Agency (SAGA) under the national government, it will:
    - Access direct exchequer allocations.
    - Employ highly specialized personnel.
    - Receive capital development support aligned with national referral standards.

In the larger context of national healthcare, elevating JOOTRH to a national referral hospital and establishing it as a SAGA under the national government is a necessary and strategic move to:

- Expand equitable access to quality healthcare.
- Align institutional mandate with national and regional health needs.
- Enhance Kenya's overall healthcare delivery system in line with Universal Health Coverage (UHC) and Vision 2030.

CHAPTER 4: POLICY AND LEGAL FRAMEWORK

The establishment of National Referral Hospitals in Kenya is guided by a well-defined legal and policy framework, anchored in the Constitution, the Health Act Cap.241, and Kenya Health Policy 2014–2030.

The proposed gazettement is supported by the Health Act Cap.241 and policy frameworks at both national and sectoral levels.

4.1 Constitutional Mandate

Article 43(1)(a) of the Constitution of Kenya guarantees every citizen the right to the highest attainable standard of health.

Article 43(1)(a)

- Provides every person the right to the highest attainable standard of health, including reproductive health care.

Fourth Schedule (Part 1, Para. 23 on National Government Functions)

- Health policy and management of national referral health facilities are the responsibility of the national government.
- The Constitution establishes the devolved structure, where counties manage primary and secondary health services, while the national government manages national referral services.

4.2 The Health Act (2017)

The Health Act (2017) and Kenya Health Policy 2014–2030 calls for:

- Establishing regionally distributed national referral hospitals.
- Supporting centers of excellence for specialized care.

JOOTRH meets both requirements and must be formally designated as such to implement these policies.

Section 25(1) of the Health Act and the First Schedule classify referral facilities, with Level 6 designated as national referral hospitals managed by the national

government. These are managed and funded by the national government and include institutions offering highly specialized services.

The First Schedule outlines the levels of healthcare, with Level 6 facilities providing specialized, highly technical services, teaching and research. Further, sections 15 & 16 provide for the establishment of referral systems and coordination between levels of care.

4.3. The State Corporations Act (Cap. 446)

Section 3(1) empowers the President to establish a state corporation through a Legal Notice, giving it body corporate status and specific functions. When a referral hospital is established as a state corporation, it may be governed under this Act, enabling it to operate semi-autonomously.

This is the legal basis for creating JOOTRH as a Semi-Autonomous Government Agency (SAGA) under national government control.

4.4. Kenya Health Policy 2014–2030

The Kenya Health Policy, which provides the overarching vision for the health system, calls for the development of regional centers of excellence to deliver specialized health services.

The Policy emphasizes decongesting existing national hospitals and improving geographic equity in access to advanced care while supporting the development of teaching, research, and innovation capacities within the health system.

In the broader context, the Policy defines health service delivery at six levels, with Level 6 designated for national referral hospitals, which provide highly specialized services and training.

4.5. Vision 2030 (Social Pillar – Health Sector)

The Vision 2030 strategy envisions a health system that guarantees equitable access to quality healthcare for all Kenyans and that supports investment in specialized referral facilities as a strategy to reduce the burden of disease and improve the quality of care.

It prioritizes the upgrading and expansion of national referral services, with an emphasis on decongesting top-tier hospitals and strengthening regional referral facilities like JOOTRH.

4.6 Kenya Health Sector Referral Strategy (2014 – 2018)

The Strategy defines the hierarchical referral system, from community health services (Level 1) to national referral hospitals (Level 6), together with the criteria for designating referral facilities, which includes the need for highly specialized care and national coverage.

CHAPTER 5: OBJECTIVES OF THE JARAMOGI OGINGA ODINGA TEACHING AND REFERRAL HOSPITAL ORDER, 2025

5.1 Specific Objective of the Order

The primary objective of the Jaramogi Oginga Odinga Teaching and Referral Hospital (JOOTRH) Order, 2025 is to confer legal recognition upon JOOTRH as

a National Teaching and Referral Hospital (Level 6) and to align the institution's mandate with national health policies, strategies, and regulatory frameworks.

By elevating JOOTRH to the status of a State Corporation under the Ministry of Health, the Order seeks to strengthen the health system by expanding access to specialized care in the Western Kenya region and aligning Kenya's health policy and constitutional obligations.

Specifically, the Order seeks to:

1. **Designate JOOTRH as a National Referral Hospital (Level 6).** This formalizes JOOTRH's role as a Level 6 facility serving as a national center for referral and specialized care under the Fourth Schedule of the Constitution of Kenya, 2010.
2. **Establish JOOTRH as a State Corporation**. Doing so provides the hospital with corporate status, including the powers to manage its affairs and exercise autonomy in operations and administration in accordance with the State Corporations Act.
3. **Enhance Specialized Healthcare Delivery**. JOOTRH will expand and improve the delivery of highly specialized and super-specialized services including oncology, renal care, cardiology, critical care, trauma response, and diagnostics, thereby contributing to Kenya's UHC agenda.
4. **Promote Training, Research and Innovation.** The Order will institutionalize JOORTH as a teaching and research hospital in partnership with other institutions to support medical education, clinical internships and health research.
5. **Support National and Regional Referral Networks.** JOOTRH's status as a Level 6 hospital will serve to strengthen the national health referral system by decongesting other Level 6 hospitals and serve as a strategic referral center for the Lake Region Economic Bloc (LREB).

6. **Enable Sustainable Infrastructure and Resource Mobilization**. The Order will help provide a legal framework that empowers the hospital to mobilize resources, enter into strategic partnerships, and invest in infrastructure and technological advancements to meet international standards.
7. **Institutionalize Good Governance and Financial Accountability.** JOORTH's Board of Management will be empowered to establish internal structures that ensure strategic leadership, oversight, financial prudence and results-based management practices.

Expected Outcomes

The realization of these objectives is expected to result in:

- Expanded access to high-quality specialized healthcare in underserved regions.
- Improved clinical outcomes through timely referral and treatment.
- Strengthened training and retention of healthcare professionals.
- Enhanced capacity for emergency preparedness and disaster response.
- Sustainable governance and financial independence of the institution.

CHAPTER 6: COST-BENEFIT ANALYSIS

The RIS evaluates the economic and social implications of elevating JOOTRH. Elevating JOOTRH to the status of a National Referral Hospital presents a transformative opportunity for Kenya's healthcare system, especially in promoting equitable access to specialized medical services. However, this transition also comes with associated costs that must be carefully considered against the expected benefits.

On the benefits side, the most immediate and significant gain is improved access to specialized healthcare for the populations in Western Kenya, parts of the Rift Valley, and even cross-border regions. Currently, patients requiring advanced care must travel long distances to Nairobi or Eldoret, which is expensive, delays treatment and can lead to worsened health outcomes. By formally recognizing JOOTRH as a national referral hospital, patients in these underserved regions will be able to access high-level care more conveniently and affordably.

Another major benefit is the decongestion of existing national referral hospitals, particularly Kenyatta National Hospital and Moi Teaching and Referral Hospital, which are overwhelmed by referrals from across the country. The inclusion of JOOTRH as a Level 6 facility redistributes this demand and helps balance the national healthcare load more efficiently.

From a strategic perspective, the move promotes geographic equity and regional balance in the delivery of specialized healthcare. It aligns with Kenya's constitutional commitment to the right to health and supports national development goals under Vision 2030 and the Universal Health Coverage (UHC) agenda. It ensures that high-quality services are not concentrated in only a few urban centers but are accessible to all Kenyans regardless of location.

JOOTRH's role as a training and research facility will also be significantly enhanced. Its affiliation with Maseno University already positions it as a hub for medical education and innovation. As a national referral institution, it can attract more funding, talent, and partnerships for advanced training, research, and clinical trials, thereby strengthening Kenya's health research ecosystem.

Additionally, the hospital will play a central role in emergency preparedness and epidemic response for the Lake Region and beyond. Its capacity to handle pandemics, outbreaks, and trauma cases will be strengthened, providing resilience and backup to the national system in times of crisis.

The economic benefits of the elevation are also worth noting. Increased investment in infrastructure, staffing, and services is expected to stimulate the local economy through job creation, skills development, and business growth, particularly in the health and hospitality sectors.

Costs

There will be significant capital investments required to upgrade infrastructure, procure state-of-the-art medical equipment, and expand service areas to meet the standards of a Level 6 facility. The recurrent costs will also increase, including salaries for specialized staff, operational expenses, and maintenance of high-end diagnostic and surgical equipment.

Moreover, there are administrative and governance-related costs associated with establishing JOOTRH as a semi-autonomous government agency (SAGA) under the national government. These include the establishment of a Board of Directors, the development of new administrative systems, compliance with national procurement and audit regulations, and alignment with the Public Finance Management framework.

During the transition, integration costs may arise, especially in harmonizing the shift from county to national government oversight. These include potential restructuring of staff roles, reallocation of resources, and legal adjustments to accommodate the hospital's new status.

Despite these costs, the long-term benefits—in terms of improved health outcomes, reduced inequalities, system efficiency, and strategic positioning—far outweigh the financial implications. Elevating JOOTRH to a national referral hospital is, therefore, a sound investment in Kenya's health system and a necessary step toward achieving universal, equitable, and quality healthcare for all.

Table 1: Cost-Benefit Matrix

Area	Benefits	Costs
Access to Care	Shorter travel time and reduced congestion at other national referral hospitals.	None
Infrastructure	Modernization and regional equity	Capital investment in equipment, facilities
Workforce	Attraction of specialists, training hub	Higher salaries, recruitment cost
Governance	Efficient, autonomous operations	Board setup, compliance costs
Research & Policy	Data-driven decision-making	Investment in research infrastructure
Economic Impact	Local jobs, hospital-based economy	Operational expenses
UHC and Vision 2030	Supports health access and equity goals	Coordination with county systems

CHAPTER 7: CONSIDERATION OF ALTERNATIVES

7.1 Introduction

The Statutory Instruments Act, Cap. 2A requires a regulation-making authority to carry out an informed evaluation of a variety of regulatory and non-regulatory policy measures by considering relevant issues such as costs, benefits, distributional effects and administrative requirements. Subsidiary legislation

should be the last resort in realizing policy objectives. The options considered under this Chapter are maintenance of the status quo, administrative measures and implementation of the subsidiary legislation. Three options were considered to address the regulatory gap.

7.2 Alternatives

7.2.1 Option One: Maintain the Status Quo

Jaramogi Oginga Odinga Teaching and Referral Hospital (JOOTRH) as a county referral hospital, without elevating it to a National Referral Hospital (Level 6), would continue overburdening Moi Teaching and Referral Hospital as the only major national facility offering highly specialized care in the region which will perpetuate congestion.

Populations in the Lake Region Economic Bloc (LREB) and surrounding areas will continue to experience limited access to advanced medical care. The continued classification of JOOTRH as a county hospital undermines efforts to decentralize health services equitably. It creates a perception of neglect toward the western region. This can fuel regional dissatisfaction and perpetuate disparities in access to quality care.

National status enables access to capital funding from the national government and development partners. Without this recognition:

- Infrastructure upgrades may stall due to county budget limitations.
- Specialized departments (e.g., oncology, cardiology, neurosurgery) may remain underdeveloped.
- Service delivery will lag behind national standards for tertiary care.

7.2.2 Option Two: Implement Administrative Measures

Use internal policy without legal recognition. While administrative actions—such as increased funding through ad hoc allocations, secondment of specialist staff, or designation as a teaching and training site—can help support the hospital's functions in the short term, they lack legal backing, budgetary sustainability, and institutional permanence. The hospital would remain excluded from the formal classification under the Health Act, 2017, which would limit its access to dedicated national funding lines, restrict long-term planning, and create uncertainty around staffing, procurement, and governance structures.

7.2.3 Option Three: Approval of the Legal Order *(Preferred Option)*

Establishing national referral hospitals such as Jaramogi Oginga Odinga Teaching and Referral Hospital (JOOTRH) through a Legal Notice is the best option because it provides a clear, lawful, and sustainable foundation for their existence, operations, and integration into Kenya's national health system.

Unlike administrative arrangements, which are vulnerable to changes in leadership or shifting priorities, legal recognition provides long-term stability, legitimacy, and enforceability. Ultimately, gazettement by legal notice is the most robust, transparent, and accountable mechanism to elevate a hospital to national status and ensure it contributes effectively to Kenya's healthcare objectives.

7.3 Conclusion: Preferred Option

Option 3 is preferred as it provides the clearest path to operational and financial sustainability.

7.4 Impact Analysis of the Options

The matrix below shows that Option 3: Elevation via Legal Notice not only provides the strongest foundation for institutional growth, governance, and sustainability, but also aligns fully with Kenya's constitutional and policy

commitments, especially concerning the right to health, equitable development, and national healthcare strategy.

Expanded Impact Assessment Matrix for Elevation of JOOTRH

Impact Area	Option 1: Maintain (Status Quo)	Option 2: Use Administrative Measures Only	Option 3: Elevate via Legal Notice (Preferred Option)
Social Impact	Continued inequity in healthcare access Regional disparities in health outcomes	Slight service improvement Unclear service mandate	Improved access to specialized care Promotes national health equity
Economic Impact	Economic stagnation in the region High patient expenditure	Modest support for health service delivery No investment planning	Boosts regional economy Enables long-term investment and local job creation
Environmental Impact	Higher emissions from long-distance travel Limited waste management capacity	Partial infrastructure improvement Environmental risks unmanaged	Promotes sustainable facility development Better hospital waste management
Legal Impact	No statutory authority to function as a Level 6 facility Weak governance	Outside formal legal framework Unclear mandates and accountability	Full legal compliance with the Health Act and State Corporations Act Clear mandates and legal standing
Tax-related Impact	Limited funding options	No structured fiscal planning	Enables structured budgeting

Impact Area	Option 1: Maintain (Status Quo)	Option 2: Use Administrative Measures Only	Option 3: Elevate via Legal Notice (Preferred Option)
	No access to national grants or tax incentives	Ineligible for donor-supported national programs	Can attract tax-exempt donor funding and grants
Human Rights Impact	Violates Article 43 of the Constitution (right to highest attainable standard of health) due to service inaccessibility	Partial compliance with the right to health No accountability for rights protection	Upholds and promotes the right to health through equitable service access.
Impact on Business	Minimal local business growth Patients seek services outside the region	Some demand for health-adjacent services No institutional anchor for investment	Stimulates local supply chains, pharmaceutical and medical service businesses
Public Sector Impact	Continued strain on KNH and MTRH Underutilization of regional assets	National government lacks authority to oversee operations Uncoordinated support	Decongests national facilities Enhances coordinated health planning and service delivery
Private Sector Impact	Little to no partnership opportunities	Ad hoc collaboration, lacking	Encourages PPPs and academic/medical

Impact Area	Option 1: Maintain (Status Quo)	Option 2: Use Administrative Measures Only	Option 3: Elevate via Legal Notice (Preferred Option)
	County systems discourage private investment	predictability or structure	partnerships Predictable environment for private sector involvement
Impact on Existing Legal Frameworks	Misalignment with Health Act and UHC strategy Weakens implementation of Kenya Health Policy	Contravenes spirit of statutory health system structure Undermines referral policy	Aligns with the Constitution, Health Act, and national referral policy Supports UHC, Vision 2030, and Health Sector Strategic Plans

CHAPTER 8: PUBLIC PARTICIPATION AND CONSULTATION

8.1 Legal Requirements

It is a constitutional requirement to conduct public participation whenever a state or public officer enacts any law, makes or implements a public policy. This requirement is based on Article 1 of the Constitution on the sovereignty principle which vests all sovereign power to the people of Kenya. This power entitles the people to contribute to the process of making public decisions through their

involvement. Public participation ought to be inclusive, transparent, and accountable.

Article 174 gives powers of self-governance to the people and enhances their participation in the exercise of the powers of the State in making decisions affecting them and recognizing the rights of communities to manage their affairs and to further their development.

The Statutory Instruments Act obligates a regulation-making authority to carry out appropriate consultations before making subsidiary legislations where these are likely to have a direct, or a substantial indirect effect on business or restrict competition.

It further provides that in determining whether any consultation is appropriate, the authority shall have regard to all relevant matters, including the extent to which the consultations are:

(a) drew on the knowledge of persons having expertise in fields relevant to the proposed statutory instrument; and

(b) ensured that persons likely to be affected by the proposed statutory instrument had an adequate opportunity to comment on its proposed content.

The Act also states that the persons to be consulted should be notified either directly or by advertisement through representative organizations. They shall also be invited to make submissions by a specified date, which should not be less than 14 days, or be invited to participate in public hearings concerning the proposed instrument.

8.2 Process Undertaken

Consultations will be held with:

- Kisumu County Government.
- Ministry of Health.
- Parliamentary Health Committee.
- Medical training institutions and civil society.

CHAPTER 9: IMPLEMENTATION OF THE LEGAL ORDER

9.1 Compliance and Implementation

The Ministry of Health will oversee implementation in collaboration with JOOTRH's Board and other stakeholders.

9.2 Recommendations

- Immediate approval of the legal Order to facilitate its gazettement. This will facilitate budgetary support of the facility by the National Treasury.

9.3 Conclusion

The approval of the Legal Order of JOOTRH as a Level 6 National Referral Hospital is a strategic move that aligns with Kenya's healthcare goals, promotes regional equity and strengthens national capacity for advanced medical care.