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ELEVENTH PARLIAMENT-FIFTH SESSION - 2017

THE DEPARTMENTAL COMMITTEE ON HEALTH

REPORT ON A PETITION BY KENYA STUDENT NURSES CHAPTER OF THE NATIONAL NURSES ASSOCIATION OF KENYA REGARDING THE DIRECT EMPLOYMENT OF DEGREE NURSES BY THE PUBLIC SERVICE COMMISSION.

CLERK'S CHAMBERS,
DIRECTORATE OF COMMITTEE SERVICES,
PARLIAMENT BUILDINGS,
NAIROBI.

JANUARY, 2017

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1903

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ABBREVIATIONS

BScN	-	Bachelor of Science in Nursing
ICU	-	Intensive Care Unit
KMTC	-	Kenya Medical Training College
MDAs	-	Ministries, Departments and Agencies

CHAIRPERSON'S FORWARD

The Petition was tabled before the House pursuant to Standing Order No. 225 (2)(a) by the Hon. Abdikadir Ore, MP, on behalf of the Petitioner, Kenya Student Nurses Chapter of the National Nurses Association of Kenya on 29th June, 2016.

In considering the petition, the Committee invited and held meetings with the Hon. Abdikadir Ore, MP, Wajir West Constituency, who presented the petition on behalf of the petitioners, Kenya Student Nurses Chapter of the National Nurses Association of Kenya; the Principal Secretary responsible for Health; Chairperson of the Health Committee at the Council of Governors (who, however, did not honor the invitation) and Secretary to the Public Service Commission. The meetings were aimed at responding to issues raised by the petitioner.

It is therefore my pleasant duty and privilege, on behalf of the Departmental Committee on Health, to table its Report on a Petition by Kenya Student Nurses Chapter of the National Nurses Association of Kenya Regarding the Direct Employment of Degree Nurses by the Public Service Commission Pursuant to Standing Order 199 (6).

Signed:.....Date:.....
(HON. DR. RACHAEL NYAMAI, MP)

**CHAIRPERSON,
DEPARTMENTAL COMMITTEE ON HEALTH**

EXECUTIVE SUMMARY

This report details the consideration and response to the prayers sought by Kenya Student Nurses Chapter of the National Nurses Association of Kenya Regarding the Direct Employment of Degree Nurses by the Public Service Commission.

Pursuant to Standing Order 227 (1), the petition was referred to the Departmental Committee on Health on 29th June, 2016 for consideration and preparation of a report within 60 days. The Committee proceeded with the consideration of the petition by holding meetings to set up terms of reference and scheduling meetings. The Committee considered the petition pursuant to the provisions of Standing Order 227 (1) and (2).

In considering the petition, the Committee invited and held meetings with the Hon. Abdikadir Ore, MP, Wajir West Constituency, who presented the petition on behalf of the petitioners; petitioner, Kenya Student Nurses Chapter of the National Nurses Association of Kenya; the Principal Secretary responsible for Health; Chairperson of the Health Committee at the Council of Governors (who, however, did not honor the invitation) and Secretary to the Public Service Commission. The meetings were aimed at responding to issues raised by the petitioner.

The petitioner had prayed that the National Assembly through the Committee:-

- i) Recommends fair distribution of available current and future vacant recruitment positions of nursing personnel to reflect all cadres;
- ii) Recommend that the Ministry of Health implements the Scheme of Service for Nursing Personnel approved in May 2014; and
- iii) Makes any other order or direction that it deems fit in the circumstances of the case.

1.0 PREFACE

1.1 Establishment and Mandate of the Committee Mandate

The Committee on Health is one of the Departmental Committees of the National Assembly established under Standing Order 216 and mandated to, inter alia;

1. Investigate and inquire into, and report on all matters relating to the mandate, management, activities, administration, operations and estimates of the assigned Ministries and departments'.
2. Study the programme and policy objectives of Ministries and departments and the effectiveness of the implementation;
3. Study and review all legislation referred to it;
4. Study, assess and analyze the relative success of the Ministries and departments as measured by the results obtained as compared with their stated objectives;
5. Investigate and inquire into all matters relating to the assigned Ministries and departments as they may deem necessary, and as may be referred to them by the House;
6. To vet and report on all appointments where the Constitution or any law requires the National Assembly to approve, except those under Standing Order 204; and
7. Make reports and recommendations to the House as often as possible, including recommendation or proposed legislation.

1.2 Oversight

In executing its mandate, the Committee oversees the following government Ministries, departments and/or agencies, namely:

- i. The Ministry of Health
- ii. The Kenyatta National Hospital
- iii. The Moi Teaching and Referral Hospital
- iv. National Hospital Insurance Fund
- v. Kenya Medical Supplies Agency
- vi. The National Aids Control Council
- vii. Kenya Medical Research Institute
- viii. Kenya Medical Training College

1.3 Committee Membership

The Committee comprises the following Members:-

1. **Hon. Dr. Rachel Nyamai, M.P.** - Chairperson

2. **Hon. Dr. Robert Pukose, M.P.** - Vice Chairperson
3. Hon. Dr. Naomi Shaban, M.P.
4. Hon. Dr. Enoch Kibunguchy, M.P.
5. Hon. Dr. James Nyikal, M.P.
6. Hon. Dr. James Gesami, M.P.
7. Hon. Dr. Eseli Simiyu, M.P., CBS
8. Hon. Fred Outa, M.P.
9. Hon. Alfred Sambu, M.P.
10. Hon. John Nyaga Muchiri, M.P., HSC
11. Hon. Alfred Agoi, M.P.
12. Hon. David Karithi, M.P.
13. Hon. Dr. Dahir Mohamed, M.P.
14. Hon. Dr. James Murgor, M.P.
15. Hon. Dr. Patrick Musimba, M.P.
16. Hon. Eng. Stephen Mule, M.P.
17. Hon. Dr. Stephen Wachira, M.P.
18. Hon. Dr. Susan Musyoka, M.P.
19. Hon. Hassan Aden Osman, M.P.
20. Hon. James Gakuya, M.P.
21. Hon. Kamande Mwangi, M.P.
22. Hon. Leonard Sang, M.P.
23. Hon. Michael Onyura, M.P.
24. Hon. Mwinga Gunga, M.P.
25. Hon. Paul Koinange, M.P.
26. Hon. Raphael Milkau Otaalo, MP
27. Hon. Zipporah Jesang, MP
28. Hon. Robert Mbui, MP
29. Hon. Jared Opiyo, MP

1.4 Committee Secretariat

Ms. Esther Nginyo	-	Clerk Assistant
Mr. Dennis Mogare Ogechi	-	Clerk Assistant
Ms. Ruth Mwhaki Gakuya	-	Clerk Assistant
Ms. Sande Marale	-	Research & Policy Analyst
Ms. Marlene Ayiro	-	Legal Counsel

1.5 List of Recommendations

In response to the petitioners prayers, the Committee recommends that: -

1. The Public Service Commission should provide guidance to the County Public Service Boards on the recruitment of graduate nurses to ensure they are absorbed in to the system.
2. The Ministry of Health should consider entrenching the Inter-agency Committee on Health Human Resources matters in law by submitting a legislative proposal to that effect to Parliament.
3. The petition should be referred to the Senate for further consideration of the issues therein since a substantive number of them concern the operations of County Governments.
4. The Ministry of Health and the Public Service Commission should report to the National Assembly on the implementation of the above recommendations within 90 days from the date of tabling of this report.

1.6 Adoption of the Report

We, Members of the Departmental Committee on Health, have pursuant to Standing Order 199 adopted this Report on a Petition by Kenya Student Nurses Chapter of the National Nurses Association of Kenya Regarding the Direct Employment of Degree Nurses by the Public Service Commission and affixed our signatures (Annex 2) to affirm our approval and confirm its accuracy, validity and authenticity on 26th January, 2016.

1.7 Acknowledgement

The Committee is thankful to the Offices of the Speaker and the Clerk of the National Assembly for the logistical and technical support accorded to it during its Sittings. I also wish to express my appreciation to the Honorable Members of the Committee who, with commitment, participated in the activities of the Committee and preparation of this Report.

2.0 BACKGROUND INFORMATION

2.1 Training of nurses at degree level (BScN) commenced in 1988 in Baraton University then followed by the University of Nairobi in 1992. This was informed by the need to have more competent and well prepared nursing professionals to meet the dynamic needs of the Kenyan population. Since then, several private and public universities have successfully initiated training programs for this cadre of nurses progressively churning out considerable numbers of competent professionals who have been denied the chance to utilize their expertise in ensuring Kenyans have the highest attainable standards of health as enshrined in the Constitution.

2.2 Currently, over 2,000 degree nurses have been licensed by the Nursing Council of Kenya to practice nursing. Nevertheless, the government has been very reluctant to employ degree nurses thus foregoing the potential benefits that come along with this cadre of professionals in its healthcare system. In 1996 and 1997, the Ministry of Health under President Moi's administration, oversaw the direct absorption into public service of the pioneer groups of degree nurses. Since then, successive regimes only managed to employ 89 degree nurses in the year 2009 and very little effort has been put since then to ensure the healthcare system has adequately prepared nurses to address the population's health needs.

2.3 In Kenya, nurses are the frontline healthcare workers who are the most accessible to the citizens and contributing approximately 85% of all health outcomes. Most peripheral health facilities are manned by nurses who therefore are a major determinant of the health of this nation

3.0 SUBMISSIONS AND EVIDENCE

Having received the Petition, the Committee commenced its consideration by inviting the Hon. Abdikadir Ore, MP, Wajir West Constituency, who presented the petition on behalf of the petitioners; Kenya Student Nurses Chapter of the National Nurses Association of Kenya; the Principal Secretary responsible for Health; Chairperson of the Health Committee at the Council of Governors and Secretary to the Public Service Commission on diverse dates. All those invited honored the invitations and gave their submissions except the Chairperson of the Health Committee at the Council of Governors. During the meetings held, written and oral evidence was adduced as recorded hereunder:-

3.1 MEETING WITH HON. ABDIKADIR ORE, MP.

The Member of the National Assembly who presented the petition on behalf of the petitioners, Hon. Abdikadir Ore, MP, Wajir West Constituency appeared before the Committee on Thursday 28th July, 2016 and informed the Committee that:

1. He had been accompanied by the officials of the Kenya Student Nurses Chapter of the National Nurses Association of Kenya who would make elaborate presentations on the petition.
2. The main issue was the non-implementation of the scheme of service for nursing personnel since its approval by the Public Service Commission in 2014.
3. The graduate nurses were not being deployed after training since the year 2009.

3.2 MEETING WITH THE PETITIONERS

The Chairperson, Kenya Student Nurses Chapter of the National Nurses Association of Kenya, Mr. Amos Wekesa, appeared before the Committee on Thursday 28th July, 2016 and informed the Committee that:-

1. Since 2009 Degree Nurses graduates have not been employed by the government ;
2. After the approval of the Scheme of Service for Nursing Personnel (May 2014) in the country, all its aspects had not been fully implemented;
3. Currently, 45 out of 47 current employers (County governments) have contravened a critical provision of Article 27 (4) of the Constitution which provides for non-discrimination when employing the nursing personnel. The graduate nurses felt discriminated against with respect to their counterparts at certificate and diploma levels whose positions get advertised and with respect to medical doctors who get employed directly after internship;
4. There was a pressing need to deploy Degree Nurses in the specialized care areas recently introduced in every county such as renal unit, ICU, new-born units owing to their good background in biomedical sciences.
5. With the advanced nursing training programs such as masters and PhD levels, there was need to introduce Nurses' practitioners in Kenya.
6. There was also need to deploy degree nurses to the understaffed KMTC's as the BSc curriculum adequately enables them to serve at this capacity.
7. The association had approached the Ministry of Health, the Public Service Commission and the Council of Governors but failed to get appropriate redress hence their petitioning of Parliament.

3.3 MEETING WITH THE SECRETARY TO THE PUBLIC SERVICE COMMISSION

The Secretary to the Public Service Commission, Ms. Alice A. Otwala appeared before the Committee on Thursday, 11th August, 2016 and informed the Committee as follows, that:

1. Since 2009 there has been no guaranteed employment of graduate nurses in Kenya;
2. Health was a devolved function and the County Government Act empowers County Public Service Boards to recruit staff for counties;

3. Employment was on a need basis and upon request by Ministries on priority areas;
4. The Commission recruits nurses who may be required by the Ministry of Health but this is restricted to policy levels only while the County Public Service Boards recruit nurses that are required in the counties.
5. The full implementation of the scheme of service for nursing personnel had not been achieved despite its approval by the Public service Commission in May 2014. The revised scheme of Service for nursing personnel was approved and released to the service for implementation in May 2014;
6. The scheme provided minimum norms and standards for career progression. Its implementation lies with the relevant MDA's and counties;
7. For categories of staff under its control, the Commission had ensured that the provisions of the schemes of service were adhered to;
8. On recruitment of graduate nurses in specialized areas, the County hospital/health facilities were devolved and the recruitment and or deployment of staff to the facilities were the purview of the County Public Service Boards;
9. On deployment of graduate Nurses in Kenya medical Training College, the KMTC was a state corporation established under an act of Parliament. The Board of Management determined the cadres and number of staff to be employed;
10. There was an inter- agency Committee on Health Human resource matters which was chaired by the Public Service Commission and that had representatives from the Council of Governors, Ministry of Health, Attorney General's Office and other stakeholders that addressed Human resource matters concerning health workers;
11. Of the 66,000 staff seconded to the Counties upon the implementation of the devolved system of governance in 2013, 44,000 were health workers. The seconded staffs however remained as employees of the Commission and were entitled to their benefits i.e. pensions. New employees at the Counties were employees of the County Public Service Boards. The Commission only dealt with appeals on any Human resource matters raised by such employees e.g. Termination;
12. The Commission had made efforts to ensure that promotions that were due were done and forwarded to the Ministry of Health to follow up for all seconded health workers;
13. Graduate nurses had not been absorbed for some time. The Commission acted upon requests by the Ministry to recruit with the last recruitments for Enrolled community Nurses and nursing officers having been done between 2012 and 2013. Since then, there had been no further recruitments even with the approval of the scheme of service for nursing personnel;

14. In regard to training, the National Government retained the training element. Training opportunities are shared at a certain ration between the two levels (national and county level);
15. The Commission in 2014/2015 prepared manuals to guide human resources management in the counties. These manuals were gazetted by the former Transitional Authority. The Commission had also been organizing forums for County public Service Boards to sensitize them on human resources issues;
16. It was the role of the Commission to protect staff seconded to counties from arbitrary dismissal by County governments/governors. The Commission had for example gone to court to restrain the Bomet County Government from dismissing health workers and was also planning to enjoin the Nandi County Government in the case. There was also an injunction in court to ensure that the salaries of the affected employees were not stopped. The Commission was also handling the Machakos County Health workers' issues.

3.4 SUBMISSION BY THE PRINCIPAL SECRETARY, MINISTRY OF HEALTH

The Principal Secretary, Ministry of Health, Dr. Nicholas Muraguri, gave his submissions via a letter, Reference No. MOH/ADM/NA/01/93 Vol. III, dated 19th October, 2016.

He submitted as follows, that:

1. There was no guaranteed employment for graduate nurses in Kenya. This was also true for all other health workers;
2. The issue of employment of graduate nurse was discussed in January 2015 in a consultative meeting between representatives of the Ministry of Health, the Council of Governors, the National Treasury, the Transitional Authority and the Public Service Commission. There was consensus that it was necessary to employ the graduate nurses directly after internship especially for hospitals that have been approved by the regulatory bodies to be internship centres.
3. Kenyan universities produce over 500 graduate nurses per year implying that there were many graduate nurses in the labour market;
4. The Scheme of Service for nursing personnel approved by the Public Service Commission in 2014 was operational. However, there was a challenge of filling new grades established by the scheme and re-designation of serving officers;
5. Graduate nurses can be deployed in all clinical settings which include the specialised areas. However, the degree of Bachelor of Science in Nursing is a general nursing program and not a specialised nursing training. Where graduate nurses are deployed in specialised nursing areas, they have to work under specialist nurses in the relevant area of specialization;

6. Graduate nurses can teach in Medical Training Colleges (MTCs) but according to the Nursing Council of Kenya, the regulatory body for nurses, one needs a clinical experience of at least two years to qualify to be deployed as a trainer for nursing students in any Nursing Training School;
7. On the specific prayers sought by the petitioners he stated that:
 - i) The Ministry remains guided by the agreement reached in January 2015 after inter-party consultations at the Public Service Commission that it is necessary to employ graduate nurses directly after internship especially for the hospitals that have been approved by the regulatory bodies to be internship centres. However the Ministry's role in recruitment of health personnel was minimal since service delivery was devolved.
 - ii) The Ministry of Health was implementing the scheme of service for nursing personnel approved in May 2014. The issues of filling of new grades created by the scheme and re-designations of serving officers are being handled under the capacity rationalization program for the public service.

4.0 COMMITTEE OBSERVATIONS

The Committee made the following observations from evidence adduced in meetings, that:-

1. Despite huge resources expended in the training of graduate nurses, their skills were not being utilized to serve the public.
2. The Scheme of Service for Nursing Personnel approved by the Public Service Commission in May 2014 had not been fully implemented.
3. There was direct posting of other cadres like pharmacists and medical doctors even before devolution which was not and is still not the case with graduate nurses.
4. The devolution of the health function may imply that the Senate may be involved in processing of the petition.
5. Healthcare was increasingly becoming sophisticated with new diseases and new drugs hence the need for highly trained personnel like graduate nurses to ensure provision of quality healthcare.
6. The perception of discrimination of graduate nurses could be linked to the fact that their remuneration ought to be higher compared to their certificate and diploma counterparts yet the work output is essentially similar.
7. The degree in nursing was a general nursing degree as opposed to the diploma nurses who specialize in various fields. This has disadvantaged the nursing degree holders.
8. Graduate nurses were initially absorbed into the system as hospital administrators but the areas identified for absorption became saturated with time hence they are no longer being recruited. There is also a preference to hire Diploma level nurses by most employers since they are considered to be more hands on at work compared to the graduate nurses.

9. The Inter- Agency Committee on Health Human resource matters chaired by the Public Service Commission and with representatives from the Council of Governors, Ministry of Health, Attorney General's Office and other stakeholders was approved at the Cabinet level but was not entrenched in any law.

5.0 COMMITTEE RECOMMENDATIONS

In response to the prayers by the petitioner, the Committee recommends that:-

1. The Public Service Commission should provide guidance to the County Public Service Boards on the recruitment of graduate nurses to ensure they are absorbed in to the system.
2. The Ministry of Health should consider entrenching the Inter-agency Committee on Health Human Resources matters in law by submitting a legislative proposal to that effect to Parliament.
3. The petition should be referred to the Senate for further consideration of the issues therein since a substantive number of them concern the operations of County Governments.
4. The Ministry of Health and the Public Service Commission should report to the National Assembly on the implementation of the above recommendations within 90 days from the date of tabling of this report.

Signature:  Date: 31/01/2017

HON. (DR.) RACHAEL NYAMAI, MP.
FOR: CHAIRPERSON, DEPARTMENTAL COMMITTEE ON HEALTH

ANNEX 1.

DC-H: DEPARTMENTAL COMMITTEE ON HEALTH

ATTENDANCE REGISTER

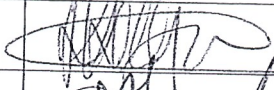
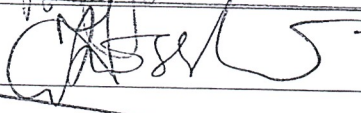

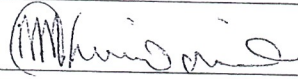
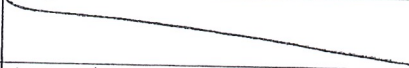
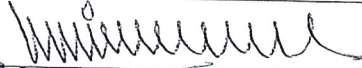
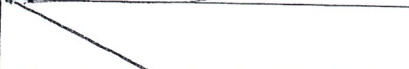


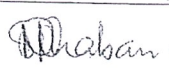


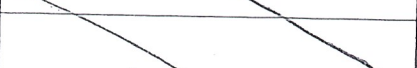
AGENDA:

1. CONSIDERATION AND ADOPTION OF THE FOLLOWING REPORTS:
 - a) REPORT ON PETITION REGARDING DIRECT EMPLOYMENT OF GRADUATE NURSES BY THE PUBLIC SERVICE COMMISSION.
 - b) REPORT ON PETITION REGARDING THE ALLEGED BRUTAL MURDER OF THE LATE COSMAS MUTUNGA AT THE KENYATTA NATIONAL HOSPITAL
 - c) REPORT ON PETITION REGARDING THE ALLEGED DETENTION OF THE BODY OF THE LATE BERRETTA RERI BY THE MANAGEMENT OF THE NAIROBI WOMEN'S HOSPITAL
 - d) REPORT ON PETITION REGARDING ALLEGED NEGLIGENCE BY THE MOMBASA HOSPITAL AND FAILURE TO ATTEND TO A PATIENT
 - e) REPORT ON THE GOVERNMENT CHEMIST AGENCY BILL (LEGISLATIVE PROPOSAL)

2. BRIEFING BY THE PARLIAMENTARY BUDGET OFFICE ON THE SUPPLEMENTARY BUDGET

DATE: 26/01/2017

VENUE: 4th Floor Court.

	NAME	SIGNATURE
1.	Hon. Dr. Rachel Nyamai, M.P. Chairperson	
2.	Hon. Dr. Robert Pukose, M.P. Vice Chairperson	
3.	Hon. Alfred Agoi, M.P.	
4.	Hon. David Karithi, M.P.	
5.	Hon. Dr. Dahir Mohamed, M.P.	
6.	Hon. Dr. Enock Kibunguchy, M.P.	
7.	Hon. Dr. James Murgor, M.P.	
8.	Hon. Dr. James Nyikal, M.P.	
9.	Hon. Dr. James Gesami, M.P.	
10.	Hon. Dr. Naomi Shaban, M.P.	
11.	Hon. Dr. Patrick Musimba, M.P.	
12.	Hon. Eng. Stephen Mule, M.P.	
13.	Hon. Dr. Stephen Wachira, M.P.	

ANNEX 2

MINUTES OF THE 2ND SITTING OF THE DEPARTMENTAL COMMITTEE ON HEALTH HELD ON THURSDAY 26TH JANUARY 2017 IN THE 4TH FLOOR COMMITTEE ROOM, CONTINENTAL HOUSE, PARLIAMENT BUILDINGS AT 10.00AM.

PRESENT

1. The Hon. Dr. Racheal Nyamai, M.P. (Chairperson)
2. The Hon. Dr. Robert Pukose, M.P. (Vice-Chairperson)
3. The Hon. David Karithi, M.P.
4. The Hon. Jared Opiyo, M.P.
5. The Hon. Dr. Naomi Shaban, M.P.
6. The Hon. Dr. Enoch Kibunguchy, M.P.
7. The Hon. Dr. Eseli Simiyu, CBS, M.P.
8. The Hon. Hassan Aden Osman, M.P.
9. The Hon. James Gakuya, M.P.
10. The Hon. Fred Outa, M.P.
11. The Hon. John Nyaga Muchiri, M.P.
12. The Hon. Robert Mbui, M.P.
13. The Hon. Michael Onyura, M.P.
14. The Hon. Mwinga Gunga, M.P.
15. The Hon. Kamande Mwangi, M.P.
16. The Hon. Leonard Sang, M.P.
17. The Hon. Raphael Milkau Otaalo, M.P.

ABSENT WITH APOLOGY

1. The Hon. Dr. James Murgor, M.P.
2. The Hon. Dr. Stephen Wachira, M.P.
3. The Hon. Dr. James Nyikal, M.P.
4. The Hon. Dr. James O. Gesami, M.P.
5. The Hon. Dr. Dahir D. Mohamed, M.P.
6. The Hon. Alfred Agoi, M.P.
7. The Hon. Stephen M. Mule, M.P.
8. The Hon. Paul Koinange, M.P.
9. The Hon. Zipporah Jesang, M.P.
10. The Hon. Dr. Patrick Musimba, M.P.
11. The Hon. Dr. Susan Musyoka, M.P.
12. The Hon. Alfred Sambu, M.P.

IN ATTENDANCE

NATIONAL ASSEMBLY SECRETARIAT

1. Ms. Esther Nginyo - Third Clerk Assistant.
2. Mr. Dennis Mogare - Third Clerk Assistant.

3. Ms. Ruth Mwihaki - Third Clerk Assistant.
4. Mr. Joash Kosiba - Fiscal Analyst

MIN.NO. DCH 006/2017: PRELIMINARIES.

The Chairperson called the meeting to order at 10.30 am and a prayer was said by Hon. Dr. Robert Pukose, M.P.

MIN.NO. DCH 007/2017: CONFIRMATION OF MINUTES

Minutes of the 95th Sitting held on Tuesday 22nd November, 2016 at 11.00 a.m. were confirmed as the true record of the Committee's deliberations after being proposed and seconded by Hon. Fredrick Outa, M.P. and Hon. Leonard Sang, M.P. respectively.

Minutes of the 97th Sitting held on Thursday 29th November, 2016 at 10.00 a.m. were confirmed as the true record of the Committee's deliberations after being proposed and seconded by Hon. David Kariithi, M.P. and Hon. Raphael Milkau Otaalo, M.P. respectively.

Minutes of the 98th Sitting held on Thursday 1st December 2016 at 10.00 a.m. were confirmed as the true record of the Committee's deliberations after being proposed and seconded by Hon. Fredrick Outa, M.P., and Hon. Michael Onyura, M.P. respectively.

Minutes of the 99th Sitting held on Tuesday 6th December, 2016 at 10.00 a.m. were confirmed as the true record of the Committee's deliberations after being proposed and seconded by Hon. Kamande Mwangi, M.P. and Fredrick Outa, M.P. respectively

Minutes of the 100th Sitting held on Wednesday 7th December, 2016 at 10.00 a.m. were confirmed as the true record of the Committee's deliberations after being proposed and seconded by Hon. Mwinga Gunga, M.P. and Hon. Kamande Mwangi, M.P. respectively.

Minutes of the 101st Sitting held on Thursday 8th December 2016 at 10.00 a.m. were confirmed as the true record of the Committee's deliberations after being proposed and seconded by Hon. Michael Onyura, M.P., and Hon. Raphael Milkau Otaalo, M.P. respectively.

MIN.NO.DCH 008/2017: CONSIDERATION AND ADOPTION OF REPORTS.

The Committee considered the following reports:

- i. **REPORT ON A PETITION BY KENYA STUDENT NURSES CHAPTER OF THE NATIONAL NURSES ASSOCIATION OF KENYA REGARDING THE DIRECT EMPLOYMENT OF DEGREE NURSES BY THE PUBLIC SERVICE COMMISSION.**

The report was adopted after being proposed by the Hon. Leonard Sang, M.P., and Seconded by the Hon. Raphael Milkau Otaalo, M.P.

ii. REPORT ON THE CONSIDERATION OF THE PETITION REGARDING ALLEGED DETENTION OF THE BODY OF BERETTA RERI BY THE MANAGEMENT OF NAIROBI WOMENS HOSPITAL.

The report was adopted after being proposed by the Hon. David Kariithi, M.P. and seconded by the Hon. Mwinga Gunga, M.P.

iii. REPORT ON THE PUBLIC PETITION BY THE FAMILY OF MOHAMED BAKARI ON NEGLIGENCE BY THE MOMBASA HOSPITAL AND FAILURE TO ATTEND TO A PATIENT.

The report was adopted after being proposed by the Hon. Mwinga Gunga, M.P., and seconded by the Hon. John Nyaga Muchiri, M.P.

iv. REPORT ON THE CONSIDERATION OF THE PETITION REGARDING THE PETITION BY THE HON. JOHN MATI, M.P THE ALLEGED BRUTAL MURDER OF THE LATE COSMAS MUTUNGA AT THE KENYATTA NATIONAL HOSPITAL.

The report was adopted after being proposed by the Hon. Robert Mbui, M.P. and seconded by the Hon. Leonard Sang, M.P.

MIN.NO.DCH 009/2017:

BRIEF ON THE ANALYSIS OF THE FIRST SUPPLEMENTARY ESTIMATES FOR THE FINANCIAL YEAR 2016/2017 FOR THE MINISTRY OF HEALTH

The Committee was taken through the Brief from the Parliamentary Budget office by Mr. Joash Kosiba, Fiscal Analyst and informed as follows:

1. The Constitution of Kenya 2010 in Article 223 provided that the national government may spend money that had not been appropriated only in two specific occasions namely: it the amount appropriated for any purpose under the Appropriation Act is insufficient or a need has arisen for expenditure for a purpose for which no amount has been appropriated by that Act; and money has been withdrawn from the Contingencies Fund. However, these expenditures must be regularized through Parliamentary approvals within two months after withdrawal of the money as stipulated in Article 223 (2&3) of the CoK, 2010.
2. The first supplementary expenditure estimates for the FY 2016/17 were submitted to the National Assembly on Thursday 1st December 2016. The supplementary budget came at a time when the Health sector was facing a crisis of serious industrial unrests which have paralyzed service delivery in all public health institutions across the country.

3. The collective bargaining agreement (CBA) signed between the Ministry of Health (MoH) and Kenya Medical Practitioners, Pharmacists, and Dentists' Union (KMPDU) in June 2013 was the basis of the current industrial action by doctors, pharmacists and dentists. The CBA which was to remain in force for a period of two years effective from 1st July 2013 had since come to haunt the government as it has paralyzed service delivery in the public health sector with serious ramifications on health and economic well-being of Kenyans.
4. The CBA had not been registered in industrial court as required by labour laws due to several legal technicalities and constitutional flaws and therefore its implementation in its current form was likely to face serious hurdles. Any agreement reached between the government and the union was also likely to have financial implications for both the national and county governments which had to be catered for through a revised budget for the FY 2016/17 or a new budget for the FY 2017/2018

Overview of the Overall Expenditure Estimates Totals

5. The gross approved expenditure estimates for the Ministry of Health in the FY 2016/17 was Ksh. 60.269 billion comprising of Ksh. 28.990 billion for current expenditures and Ksh. 31.279 billion for capital expenditures.
6. The proposed supplementary estimates I for the FY 2016/17 adjusted the approved expenditure estimates to Ksh. 60.453 billion representing an overall increase of Ksh. 183.957 million in the budget of the Ministry of Health.
7. The overall approved current expenditures estimates for the Ministry of Ksh. 28.990 billion had been adjusted upwards by Ksh. 464.963 million to Ksh. 29.455 billion while the overall approved capital expenditure estimates of Ksh. 31.279 billion had been adjusted downwards by Ksh. 281.006 million to Ksh. 30.998 billion.
8. The overall approved gross current expenditures estimates for the Ministry of Health of Ksh. 28.990 billion had been adjusted upwards by Ksh. 464.963 million to Ksh. 29.455 billion.
9. In terms of economic classification, the downward revision of current expenditures estimates were: Compensation to employees adjusted upwards by Ksh. 286.275 million from the approved Ksh. 5.72 billion to Ksh. 5.434 billion; and Other recurrent which had been adjusted downwards by Ksh. 2.16 million from the approved Ksh. 196.618 million to Ksh. 194.457 million.
10. The upward revision of the current expenditures estimates were: Use of goods and services which has been increased by Ksh. 303.399 million from the approved Ksh. 1.542 billion to Ksh. 1.845 billion; and Current transfers to government agencies which has been increased by Ksh. 450 million from the approved Ksh. 21.530 billion to Ksh. 21.980 billion
11. The overall approved gross capital expenditure estimates for the Ministry of Health of Ksh. 31.279 billion had been slightly adjusted downwards by Ksh. 281.006 million to Ksh. 30.998 billion.
12. The proposed supplementary capital expenditures estimates affected all the five programmes under implementation by the Ministry of Health. The estimates proposed to increase the total gross expenditures estimates for the following programmes and vote heads:
 - (i) National Referral & Specialized Health Services Programme: - The gross capital expenditure estimate for this programme was increasing by Ksh. 5.457 billion from

Ksh. 7.032 billion to Ksh. 11.325 billion. The significant increase was attributed to an increase in expenditure estimates for managed equipment services – hire of medical equipment for 98 hospitals whose expenditure estimate was increasing by Ksh. 5.1 billion from Ksh. 4.5 billion to Ksh. 9.6 billion.

- (ii) Health Research and Development Programme:- The gross capital expenditure estimates for this programme was increasing by Ksh. 100 million from Ksh. 209 million to Ksh. 309 million. The increase was attributed to increased allocation for construction of building tuition blocks at KMTC from Ksh. 140 million to Ksh. 240 million

13. The following were other votes heads which had an increase in allocation of capital expenditure estimates:

- (i) Kenya Health Sector Support Project (KHSSP): The approved gross capital expenditure estimate for this vote head was increasing by Ksh. 50 million from Ksh. 3.422 billion to Ksh. 3.472 billion
- (ii) Tuberculosis Round 6: - The approved gross capital expenditure estimate for this vote head was increasing by Ksh. 260.63 million from Ksh. 1.008 billion to Ksh. 1.269 billion.
- (iii) Clinical Waste Disposal Project:- The approved gross capital expenditure estimate for this vote head was increasing by Ksh. 860 million from Ksh. 40 million to Ksh. 900 million
- (iv) Expansion of Ileho Health Centre (KIDDP):- The approved gross capital expenditure estimate for this vote head had been allocated by Ksh. 20 million. There was no allocation for the vote head in the approved expenditure estimate.
- (v) Free Maternity Programme (Strategic Intervention):- The approved gross capital expenditure estimate for this vote head was increasing by Ksh. 1.498 billion from approved expenditure estimate of Ksh. 4.298 billion in the approved expenditure estimates to Ksh.5.796 billion in the supplementary expenditure estimates. The significant increase may be attributed to the expansion of the free maternity programme and the recently launched “Linda Mama Programme”
- (vi) Procurement of Ambulances: - The Ministry was set to benefit from Smith and Ouzman (popularly referred to as “chicken gate scandal”) compensation. The compensation of Ksh. 43.746 million had been has been budgeted for procurement of ambulances.
- (vii) Provision of Medical Equipment for Msambweni Hospital: There is a new allocation of Ksh. 100 million for provision of medical equipment.
- (viii) Capacity Building Support to Kisii Hospital Cancer Centre: - There was a new allocation of Ksh. 15.2 million for capacity building.

14. The supplementary expenditure estimates proposed to reduce the total gross capital expenditures estimates for the following programmes and vote heads:

- (i) General Administration, Planning and Support Services: - The gross capital expenditure estimate for this programme was reducing by Ksh. 4.173 billion from Ksh. 9.94 billion to Ksh. 5.767 billion .

- (ii) Preventive, Promotive and RMNCAH: The gross capital expenditure estimate for this programme was reducing by Ksh. 1.454 billion from the approved Ksh. 6.061 billion to Ksh. 4.608 billion.
 - (iii) Health Policy, Standards and Regulations: - The gross capital expenditure estimate for this programme was reducing by Ksh. 211 million from the approved Ksh. 8.038 billion to Ksh. 7.827 billion.
15. The following were some of the capital expenditure estimates votes heads which had been adjusted downwards:
- (i) East Africa's Centres of Excellence for Skills and Tertiary Education: - The gross capital expenditure estimate for this vote head had been reduced by Ksh. 279.63 million from the approved Ksh. 365 million to Ksh. 85.370 million.
 - (ii) Kenyatta National Hospital- Construction of Buildings: - The gross capital expenditure estimate for this vote head had been reduced by Ksh. 100 million from the approved Ksh.150 million to Ksh. 50 million. Another approved expenditure estimate of Ksh. 150 million for construction had been reduced by Ksh 99.5 million to Ksh. 50.5 million. These reductions were likely to significantly affect development projects being undertaken at KNH.
 - (iii) Health Sector Development (Reproductive Health and HIV/AIDS) Commodity: The gross capital expenditure estimate for this vote head had been reduced by Ksh.115 million from the approved Ksh. 385 million to Ksh. 269.5 million.
 - (iv) Program for Basic Health Insurance Subsidy: The gross capital expenditure estimate for this vote head had been reduced by Ksh. 210 million from the approved Ksh. 700 million to Ksh. 490 million.
 - (v) Wajir District Hospital: The gross capital expenditure estimate for this vote head had been reduced by Ksh. 200 million from the approved Ksh. 250 million to Ksh. 50 million.
 - (vi) Kenya Medical Supplies Authority: - The gross capital expenditure estimate for this vote head had been reduced by Ksh. 2.125 billion from the approved Ksh. 3.125 billion to Ksh. 1 billion. The reduction had been necessitated by a reduction in grants from development partners and is likely to affect operation at KEMSA.
 - (vii) Moi Teaching and Referral Hospital (MTRH):- The gross capital expenditure estimate for this vote head had been reduced to zero from Ksh. 364.021 million following a reduction in development partner support. This reduction affected specialized materials and supplies for Academic Model Providing Access project.
 - (viii) East Africa Public Laboratory Networking Project: The gross capital expenditure estimate for this vote head had been reduced by Ksh. 534.965 million to Ksh. 200 million from Ksh. 734.965 million. The reduction had been necessitated by reduction in external development partner support.
 - (ix) Upgrade of Health Centres in Slums (Strategic Interventions):- The gross capital expenditure estimate for this vote head had been reduced by Ksh. 116.052 million from approved Ksh, 500 million to Ksh. 383 .947 million.

- (x) Roll out of Universal Health Coverage: - The gross capital expenditure estimate for this vote head had been reduced by Ksh. 1 billion from the approved Ksh. 1.3944 billion to Ksh. 394.4 million.
16. In terms of economic classification, the downward revision of capital expenditures estimates were: Acquisition of non-financial assets which had been revised downwards by Ksh. 317.386 million from the approved Ksh. 1.564 billion to Ksh. 1.246 billion; and capital grants to government agencies which had been adjusted downwards by Ksh. 577.356 million from the approved Ksh. 15.405 billion to Ksh. 14.828 billion.
17. The upward adjustment in capital expenditures estimates affected only other development which had been adjusted upwards by Ksh. 613.736 million from the approved Ksh. 14.309 billion to Ksh. 14.923 billion.
18. There was an adjustment in all the MTEF budget programmes for the Ministry of Health in the supplementary expenditures estimates I for the FY 2016/17.

SALIENT ISSUES

The following were some of the salient issues arising from the analysis of the supplementary expenditure estimates for vote 1081 Ministry of Health:

1. Compliance with the Legal Provisions: - The Constitution, the Public Finance Management Act 2012 and the Public Finance Management (National Regulations) 2015 sets the legal threshold for a supplementary budget estimates. Regulation 40 (9) of the PFM (National Government) Regulations 2015 provides that In approving any estimates under sections 43 and 44 of the Act, the National Assembly approval shall not exceed ten (10) percent of the approved budget estimates of a program or Sub-Vote unless it is for unforeseen and unavoidable need as defined in section 21 of the Act. The changes in the following programmes do not meet the legal requirement:
- (a) Preventive, Promotive and RMNCAH recurrent expenditure estimates proposed total deduction of 23.98 percent exceeds the 10 percent limit and some of the items proposed for changes are neither unforeseen nor unavoidable.
 - (b) Preventive, Promotive and RMNCAH development expenditure estimates proposed total increase of 22.34 percent exceeds the 10 percent limit and some of the items proposed for changes are neither unforeseen nor unavoidable.
 - (c) The re-allocation of current expenditure estimates under Preventive, Promotive and RMNCAH programme to defray capital expenditures contravenes Section 43(1b) of the PFM Act, 2012 which states that accounting officer may reallocate funds from the authorized use but may not reallocate funds where the funds are appropriated for capital expenditure except to defray other capital expenditure.
 - (d) National Referral & Specialized Services Programme development expenditure estimates proposed total increase of 77.60 percent exceeds the 10 percent limit and some of the items proposed for changes such as increased allocation to Managed Equipment Services are neither unforeseen nor unavoidable.
 - (e) Health Research and Development Programme development expenditure estimates proposed total increase of 47.96 percent exceeds the 10 percent limit and some of

the items proposed for changes such as increased allocation to KMT of Ksh. 100 million for construction of classroom are neither unforeseen nor unavoidable.

2. Introduction of new budget Items: The proposed introduction of new budget items such Procurement of Ambulances; Provision of Medical Equipment for Msambweni Hospital and Capacity Building Support to Kisii Hospital Cancer Centre contravenes Regulation 40 (8) PFM (National Government) which requires budget allocations for new policy options and service delivery initiatives to be only be considered when introduced in the annual estimates. Furthermore these new budget items are neither unforeseen nor unavoidable.
3. Managed Equipment Services Programme: - The significant increase in expenditure estimates for managed equipment services – hire of medical equipment for 98 hospitals by Ksh. 5.1 billion from Ksh. 4.5 billion to Ksh. 9.6 billion raises doubts as proper planning for the implementation of the programme. Furthermore proposed allocation of Ksh. 100 million to Msambweni Hospital for purchase of medical equipment may lead to double expenditures if Msambweni is one of the 98 hospitals benefiting from the Managed Equipment Services Programme
4. Othaya Hospital Upgrading Project: - The new allocation of Ksh. 300 million to pay for pending bills for Othaya Hospital Upgrading Project does not qualify for supplementary since it was neither unforeseen nor unavoidable. It also contravenes Regulation 40 (8) of the PFM (National Government) Regulation 2015 which requires budget allocations for new policy options and service delivery initiatives to be only be considered when introduced in the annual estimates
5. Kenyatta National Hospital (KNH):- The reductions in capital expenditures estimates for KNH construction of buildings are likely to hamper development projects at the hospital and impede effective service delivery.

Committee Observations and Resolutions

The Committee observed that:

- a. The salient issues arising from the First Supplementary Estimates raised serious concerns in regard to the Ministry's utilization of the 2016/2017 budget:
- b. The supplementary estimates presented itself as a revised budget and did not serve the purpose of a supplementary budget given that it failed to comply with the Public Finance Management Act 2012 and the Public Finance Management (National Regulations) 2015.

Committee Resolutions

The Committee resolved that the Cabinet Secretary for Health should appear before the Committee on 2nd February to Clarify on the following:

- a. The rationale of increasing the free maternity fund by Kshs. 1.498 billion considering that there were allegations of diversion of funds from free maternity for financial year 2015/2016;
- b. Whether the free maternity fund disbursement was being done through the National Hospital Insurance Fund as previously proposed by the Committee;
- c. The rationale for allocating Kshs. 100 million for medical equipment to Msambweni Hospital whereas the hospital is a beneficiary of the managed equipment service;

- d. The facilities/counties that will benefit from the ambulances that are budgeted for with the compensation of Kshs. 43.746 million from Smith and Ouzman.
- e. The rationale for additional allocation of Kshs. 5.1 billion to the MES project and the MES implementation status as at January 2017.
- f. Justification for the allocation of Kshs. 200 million for nutrition;
- g. How the reduction of the allocation to the Kenyatta National Hospital going to affect development projects being under taken by the hospital;
- h. The total allocation for the construction of Othaya Hospital to date;
- i. Provide justification on each of the item affected by the supplementary estimates especially those which are beyond the legal threshold of 10%.

MIN.NO. DCH 010/2017: ANY OTHER BUSINESS

1. Doctors Strike

The Committee noted the ongoing industrial unrest in the Health sector which had paralyzed services in public hospitals and resolved that the CBA signed with the Doctors be availed to the Committee on Tuesday 31st January 2017 for scrutiny. The Committee would thereafter make a decision on how to proceed with the matter.

2. Managed Equipment Service Project

The Committee noted that there was need to conduct an audit of the MES project to ascertain value for money given that the Project had been allocated a substantial amount of funds since inception and the First supplementary estimates had further proposed an additional 5.1 billion allocation for the project.

The Committee resolved that a request be made to the Auditor General's Office for a special performance Audit of the project.

MIN.NO. DCH 011/2017: ADJOURNMENT

There being no other business, the meeting was adjourned at 12.05 pm.

SIGNED:

**HON (DR.) RACHAEL NYAMAI, M.P.
CHAIRPERSON**

DATE: 31/01/2017

MINUTES OF THE 60TH SITTING OF THE DEPARTMENTAL COMMITTEE ON HEALTH HELD ON THURSDAY, 11TH AUGUST, 2016, IN THE COMMITTEE ROOM ON 2ND FLOOR, CONTINENTAL HOUSE, PARLIAMENT BUILDINGS, AT 10.00 AM.

PRESENT

1. The Hon. Dr. Racheal Nyamai, M.P. (Chairperson)
2. The Hon. Dr. Robert Pukose, M.P. (Vice Chairperson)
3. The Hon. Alfred Agoi, M.P.
4. The Hon. David Karithi, M.P.
5. The Hon. Dr. Enoch Kibunguchy, M.P.
6. The Hon. Dr. James Murgor, M.P.
7. The Hon. Dr. James Nyikal, M.P.
8. The Hon. Dr. James O. Gesami, M.P.
9. The Hon. Dr. Stephen Wachira, M.P.
10. The Hon. Fred Outa, MP
11. The Hon. John Nyaga Muchiri, M.P., HSC
12. The Hon. Leonard Sang, M.P.
13. The Hon. Raphael Milkau Otaalo, M.P.
14. The Hon. Zipporah Jesang, M.P.

ABSENT WITH APOLOGY

1. The Hon. Dr. Naomi Shaban, M.P.
2. The Hon. Dr. Dahir D. Mohamed, M.P.
3. The Hon. Michael Onyura, M.P.
4. The Hon. Hassan Aden Osman, M.P.
5. The Hon. Mwinga Gunga, M.P.
6. The Hon. Jared Opiyo, M.P.
7. The Hon. Kamande Mwangi, M.P.
8. The Hon. Robert Mbui, M.P.
9. The Hon. Dr. Eseli Simiyu, CBS, M.P.
10. The Hon. Stephen M. Mule, M.P
11. The Hon. Dr. Susan Musyoka, M.P.
12. The Hon. Dr. Patrick Musimba, M.P.
13. The Hon. Alfred Sambu, M.P.
14. The Hon. Paul Koinange, M.P.
15. The Hon. James Gakuya, M.P.

IN ATTENDANCE

PUBLIC SERVICE COMMISSION

1. Alice A. Otwala - Secretary to the Public Service Commission.
2. Joseph V. Onyango - Director
3. Sally J. Tanui - Deputy Director
4. Musa Cherongony - Assistant Director

National Assembly Secretariat

1. Ms. Ruth Mwihaki - Third Clerk Assistant.
2. Mr. Dennis Mogare - Third Clerk Assistant.

MIN.NO. DCH 247/2016: PRELIMINARIES.

The Chairperson called the meeting to order at 10.28 am and a prayer was said by Hon. Fredrick Outa, M.P. She then invited all those present to introduce themselves.

MIN.NO. 248/2016: CONFIRMATION OF MINUTES

Minutes of the 59th Sitting held on Tuesday, 9th August, 2016 at 10.00 am were confirmed as the true record of the Committee's deliberations after being proposed and seconded by Hon. Raphael Milkau Otaalo, M.P. and Hon. Dr. James Murgor, M.P. respectively.

MIN.NO. 249/2016: MEETING WITH THE PRINCIPAL SECRETARY, MINISTRY OF HEALTH ON THE PETITION BY THE HON. ABDIKADIR ORE REGARDING THE DIRECT EMPLOYMENT OF GRADUATE NURSES BY THE PUBLIC SERVICE COMMISSION

The Committee was informed that the Principle Secretary had sent his apologies for the meeting due to a Special Cabinet Meeting scheduled for the same date and time.

MIN.NO. 250/2016: MEETING WITH THE CHAIRMAN OF THE HEALTH COMMITTEE AT THE COUNCIL OF GOVERNORS ON THE PETITION BY THE HON. ABDIKADIR ORE REGARDING THE DIRECT EMPLOYMENT OF GRADUATE NURSES BY THE PUBLIC SERVICE COMMISSION

The Committee was informed that Governor Jack Ranguma, Chairman of the Health Committee at the Council of Governors had sent his apologies for the meeting due to other unavoidable engagements.

MIN.NO. 251/2016:

MEETING WITH THE SECRETARY TO THE
PUBLIC SERVICE COMMISSION ON THE
PETITION BY THE HON. ABDIKADIR ORE
REGARDING THE DIRECT EMPLOYMENT
OF GRADUATE NURSES BY THE PUBLIC
SERVICE COMMISSION.

The Secretary to the Public Service Commission, Alice A Otwala informed the Committee as follows, that:

1. Since 2009, there had been no guaranteed employment of graduate nurses in Kenya;
2. Health was a devolved function and the County Government Act empowers County Public Service Boards to recruit staff for counties;
3. Employment was on a need basis and upon request by Ministries on Priority areas;
4. The Commission recruits nurses who may be required by the Ministry of Health but this is restricted to policy levels only while the County Public Service Boards recruits nurses that are required in the counties.
5. The full implementation of the scheme of service for nursing personnel had not been achieved despite its approval by the Public service Commission in May 2014. The revised scheme of Service for nursing personnel was approved and released to the service for implementation in May 2014;
6. The scheme provided minimum norms and standards for career progression. Its implementation lies with the relevant MDA's and counties;
7. For categories of staff under its control, the Commission had ensured that the provisions of the schemes of service were adhered to.
8. Recruitment of graduate nurses in specialized areas:
The County hospital/health facilities were devolved and the recruitment and or deployment of staff to the facilities were the purview of the County Public Service Boards
9. Deployment of graduate Nurses in Kenya medical Training College
The KMTC was a state corporation established under an act of Parliament. The Board of Management determined the cadres and number of staff to be employed;
10. There was an inter- agency Committee on Health Human resource matters which was chaired by the Public Service Commission and that had representatives from the Council of Governors, Ministry of Health, Attorney General's Office and other stakeholders that addressed Human resource matters concerning health workers.
11. Of the 66,000 staff seconded to the Counties upon the implementation of the devolved system of governance in 2013, 44,000 were health workers. The seconded staffs however remained as employees of the Commission and were entitled to their benefits i.e. pensions. New employees at the Counties were employees of the County Public Service Boards. The Commission only dealt with appeals on any Human resource matters raised by such employees e.g. Termination.

12. The Commission had made efforts to ensure that promotions that were due were done and forwarded to the Ministry of Health to follow up for all seconded health workers.
13. Graduate nurses had not been absorbed for some time. The Commission acted upon requests by the Ministry to recruit with the last recruitments for Enrolled community Nurses and nursing officers having been done between 2012 and 2013. Since then, there had been no further recruitments even with the approval of the scheme of service for nursing personnel.
14. In regard to training, the National Government retained the training element. Training opportunities are shared at a certain ration between the two levels (national and county level).
15. The Commission in 2014/2015 prepared manuals to guide human resources management in the counties. These manuals were gazetted by the former Transitional Authority. The Commission had also been organizing forums for County public Service Boards to sensitize them on human resources issues;
16. It was the role of the Commission to protect staff seconded to counties from arbitrary dismissal by County governments/governors. The Commission had for example gone to court to restrain the Bomet County Government from firing health workers and was also planning to enjoin the Nandi County Government in the case. There was also an injunction in court to ensure that the salaries of the affected employees were not stopped. The Commission was also seized with the Machakos County Health workers issues

Committee observations and resolutions

The Committee observed and resolved as follows; that

1. Graduate nurses were initially absorbed into the system as hospital administrators but the areas identified for absorption became saturated with time hence they are no longer being recruited. There is also a preference to hire Diploma nurses by most employers since they are considered to be more hands on at work compared to the graduate nurses.

The Commission should provide guidance to the County Public Service Boards on the recruitment of graduate nurses to have them absorbed in to the system.

The Commission should also provide guidelines to the extent that graduate nurses should also have a diploma in nursing as a prequalification for training at degree level.

2. The Inter- Agency Committee on Health Human resource matters chaired by the Public Service Commission and with representatives from the Council of Governors, Ministry of Health, Attorney General's Office and other stakeholders was approved at the Cabinet level but was not entrenched in any law.

The Committee would consider entrenching the Inter-agency Committee on Health Human Resources matters in the Health bill when the Committee would be considering the Senate amendments to the Bill.

MIN.NO. DCH 252/2016: ADJOURNMENT

There being no other business, the meeting was adjourned at 11.30 am.

SIGNED: 

HON (DR.) RACHAEL NYAMAI, M.P.
CHAIRPERSON

DATE: 31 / 01 / 2017

MINUTES OF THE 56TH SITTING OF THE DEPARTMENTAL COMMITTEE ON HEALTH HELD ON THURSDAY 28TH JULY, 2016, IN THE BOARDROOM ON 11TH FLOOR, PROTECTION HOUSE, PARLIAMENT BUILDINGS, AT 10.00 AM.

PRESENT

1. The Hon. Dr. James Murgor, M.P. - Acting Chairperson
2. The Hon. Fred Outa, M.P.
3. The Hon. Dr. Stephen Wachira, M.P.
4. The Hon. Dr. Dahir D. Mohamed, M.P.
5. The Hon. Kamande Mwangi, M.P.
6. The Hon. David Karithi, M.P.
7. The Hon. Hassan Aden Osman, M.P.
8. The Hon. Raphael Milkau Otaalo, M.P.
9. The Hon. Jared Opiyo, M.P.
10. The Hon. Zipporah Jesang, M.P.
11. The Hon. Leonard Sang, M.P.
12. The Hon. Michael Onyura, M.P.
13. The Hon. Dr. Enoch Kibunguchy, M.P.
14. The Hon. James Gakuya, M.P.
15. The Hon. Mwinga Gunga, M.P.

ABSENT WITH APOLOGY

1. The Hon. Dr. Racheal Nyamai, M.P. (Chairperson)
2. The Hon. Dr. Robert Pukose, M.P. (Vice Chairperson)
3. The Hon. Dr. Naomi Shaban, M.P.
4. The Hon. Alfred Agoi, M.P.
5. The Hon. John Nyaga Muchiri, M.P.
6. The Hon. Dr. James Nyikal, M.P.
7. The Hon. Paul Koinange, M.P.
8. The Hon. Dr. James Murgor, M.P.
9. The Hon. Robert Mbui, M.P.
10. The Hon. Dr. Eseli Simiyu, CBS, M.P.
11. The Hon. Dr. James O. Gesami, M.P.
12. The Hon. Stephen M. Mule, M.P.
13. The Hon. Dr. Susan Musyoka, M.P.
14. The Hon. Dr. Patrick Musimba, M.P.
15. The Hon. Alfred Sambu, M.P.

IN ATTENDANCE

Members

The Hon. Abdikadir Ore, MP

Student Nurses Chapter, National Nurses Association of Kenya.

1. Mr. Morris Mwenda - Petitioner
2. Mr. Alfred Obango - National Secretary, National Nurses Association of Kenya.
3. Mr. Wekesa Amos - Kenya Student Nurses Chapter

National Assembly Secretariat

1. Mr. Dennis Mogare - Third Clerk Assistant.
2. Ms. Ruth Mwihi - Third Clerk Assistant.
3. Ms. Marlene Ayiro - Legal Counsel

MIN.NO. DCH 228/2016: PRELIMINARIES.

The Acting Chairperson called the meeting to order at 10.28 am and a prayer was said by Hon. Leonard Sang, M.P. He then stated that the agenda of the meeting was consideration of a Petition on direct employment of graduate nurses by the Public Service Commission that was presented by the Hon. Abdikadir Ore, MP, Wajir West Constituency. All those present were requested to introduce themselves.

MIN.NO. 229/2016: CONSIDERATION OF A PETITION ON DIRECT EMPLOYMENT OF GRADUATE NURSES BY THE PUBLIC SERVICE COMMISSION BY THE HON. ABDIKADIR ORE, MP, WAJIR WEST CONSTITUENCY.

The Acting Chairperson stated that the Petition on direct employment of graduate nurses by the Public Service Commission was presented to the House, on behalf of the Kenya Student Nurses Chapter of the National Nurses Association of Kenya, on Wednesday, 29th June, 2016 by Hon. Abdikadir Ore, MP, Wajir West Constituency.

It was, subsequently, committed to the Committee on Health for consideration on 30th June, 2016. The Committee, during its Sitting held on Tuesday, 19th July, 2016 resolved to invite the Hon. Abdikadir Ore, MP to brief it on the said Petition. The Member was subsequently invited through a letter dated 20th July, 2016. He then invited Hon. Abdikadir Ore, MP to make his presentation.

Presentation by Hon. Abdikadir Ore, MP, Wajir West Constituency

The Hon. Abdikadir Ore, MP appeared before the Committee and stated that:

1. He had been accompanied by the petitioner and officials of the Kenya Student Nurses Chapter of the National Nurses Association of Kenya who would make elaborate presentations on the petition.
2. The main issue was the non-implementation of the scheme of service for nursing personnel since its approval by the Public Service Commission in 2014.
3. The graduate nurses were not being deployed after training since the year 2009.

He then invited the Chairperson of the Kenya Student Nurses Chapter of the National Nurses Association of Kenya to make his presentation.

Presentation by the Chairperson, Kenya Student Nurses Chapter of the National Nurses Association of Kenya

Mr. Amos Wekesa, Chairperson, Kenya Student Nurses Chapter of the National Nurses Association of Kenya appeared before the Committee and stated that:

1. Since 2009, there has not been employment for Degree Nurses graduates in Kenya;
2. After the approval of the Scheme of Service for Nursing Personnel (May 2014) in the country, there has not been full implementation of all its aspects;
3. Currently, 45 out of 47 current employers (County governments) have contravened a critical provision of Article 27 (4) of the Constitution which provides for non-discrimination when employing the nursing personnel; The graduate nurses felt discriminated against with respect to their counterparts at certificate and diploma levels whose positions get advertised and with respect to medical doctors who get employed directly after internship.
4. There was a pressing need to deploy Degree Nurses in the specialized care areas recently introduced in every county such as renal, ICU, new-born units owing to their good background in biomedical sciences.
5. With the advanced nursing training programs such as masters and PhD levels, there was need to introduce Nurse' practitioners in Kenya.
6. There was also need to deploy degree nurses to the understaffed KMTC'S as the BSc curriculum adequately enables them to serve at this capacity.
7. The association had approached the Ministry of Health, the Public Service Commission and the Council of Governors but failed to get appropriate redress hence their petitioning of Parliament.

MEMBERS' OBSERVATIONS

Members observed that:

1. Despite huge resources expended in the training of graduate nurses, their skills were not being utilized to serve the public.
2. The Scheme of Service for Nursing Personnel approved by the Public Service Commission in May 2014 had not been fully implemented.
3. There was direct posting of other cadres like pharmacists and medical doctors even before devolution which was not and is still not the case with graduate nurses.
4. The devolution of the health function may imply that the Senate may be involved in processing of the petition.
5. Healthcare was increasingly becoming sophisticated with new diseases and new drugs hence need for highly trained personnel like graduate nurses to ensure provision of quality healthcare.

6. The perception of discrimination of graduate nurses could be linked to the fact that their remuneration ought to be higher compared to their certificate and diploma counterparts yet the work output is essentially similar.
7. The petitioner was frustrated when he attempted to meet the leadership at the Ministry of Health to express his concerns.

RESOLUTIONS

It was resolved that:

1. The Committee secretariat should schedule meetings with the following relevant stakeholders to address the petitioner's plight:
 - a) The Ministry of Health (the Cabinet Secretary, the Principal Secretary and the Director of Nursing).
 - b) The Council of Governors (the Chairperson of the Health Committee and technical staff under him).
 - c) The Public Service Commission.
2. The Committee shall endeavor to return the human resource aspect of health to be administered from the national level.

MIN.NO. DCH 230/2016: ANY OTHER BUSINESS

The Chief Executive Officers of the Kenyatta National Hospital (KNH) and the Moi Teaching and Referral Hospital (MTRH) should be invited to respond to concerns over the operations of the medical social work departments at the facilities especially with respect to the waiver of fees for the poor.

MIN.NO. DCH 231/2016: ADJOURNMENT

There being no other business, the meeting was adjourned at 11.39 am.

SIGNED:

HON (DR.) RACHAEL NYAMAI, M.P.
CHAIRPERSON

DATE: 31 / 01 / 2017

Approved
BN
SWA
23/6/16

REPUBLIC OF KENYA

ANNEX 3.



THE NATIONAL ASSEMBLY
ELEVENTH PARLIAMENT
(FOURTH SESSION)
PUBLIC PETITION

BY THE KENYA STUDENT NURSES CHAPTER OF THE NATIONAL
NURSES ASSOCIATION OF KENYA REGARDING DIRECT EMPLOYMENT
OF GRADUATE NURSES BY THE PUBLIC SERVICE COMMISSION

I, the **UNDERSIGNED**, on behalf of the Kenya Student Nurses Chapter of the National Nurses Association of Kenya,

DRAW the attention of the House on the following: -

- i) **THAT**, since 2009, there has been no guaranteed employment for graduate nurses in Kenya;
- ii) **THAT**, full implementation of the Scheme of Service for Nursing Personnel has not been achieved despite its approval by the Public Service Commission in May 2014;
- iii) **THAT**, there is pressing need to deploy graduate nurses in the specialized care areas recently introduced in every county hospital/health facilities such as renal, Intensive Care Unit and neonatal unit owing to their good background in biomedical sciences;
- iv) **THAT**, there is also need to deploy graduate nurses to the understaffed Kenya Medical Training College as the Bachelor of Science curriculum adequately enables them to serve at this capacity;
- v) **THAT**, efforts to resolve this matter with the current employers and the Ministry of Health have been futile; and nothing substantial so far has been yielded; and
- vi) **THAT**, the matter presented in this petition is not pending before any tribunal or court of law;

PUBLIC PETITION

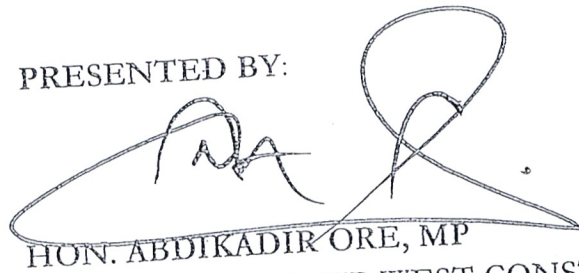
BY THE KENYA STUDENT NURSES CHAPTER OF THE NATIONAL
NURSES ASSOCIATION OF KENYA REGARDING DIRECT EMPLOYMENT
OF GRADUATE NURSES BY THE PUBLIC SERVICE COMMISSION

THEREFORE your humble Petitioners pray that the National Assembly, through the Departmental Committee on Health: -

- i. Recommends fair distribution of available current and future vacant recruitment positions of nursing personnel to reflect all cadres;
- ii. Recommend that the Ministry of Health implements the Scheme of Service for Nursing Personnel approved in May 2014; and
- iii. Makes any other order or direction that it deems fit in the circumstances of the case.

And your PETITIONERS will ever pray.

PRESENTED BY:



HON. ABDIKADIR ORE, MP

MEMBER FOR WAJIR WEST CONSTITUENCY

DATE.....14/6/0/6.....