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REPUBLIC OF KENYA



THE NATIONAL ASSEMBLY
PAPERS LAID

THE NATIONAL ASSEMBLY
DATE: 15 NOV 2018

DAY:
THURSDAY

TWELFTH PARLIAMENT - SECOND SESSION 2018

TABLED
BY:

Hon. Sabino Choge

CLERK-AT
THE-TABLE:

Lemna Moses

DEPARTMENTAL COMMITTEE ON HEALTH

PARLIAMENT
OF KENYA
LIBRARY

REPORT ON A PETITION REGARDING FRAUDULENT MEDICAL BILL ISSUED BY MP
SHAH HOSPITAL ON ACCOUNT OF TREATMENT OF THE LATE MATILDA
ANYANGO

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ABBREVIATIONS


COFEK	Consumers Federation of Kenya
DIC	Disseminated Intravascular Coagulation
KMPDB	Kenya Medical Practitioners and Dentists Board
ICU	Intensive Care Unit
UHC	Universal Health Coverage

CHAIRPERSON'S FOREWORD

On Tuesday 31st July 2018 the Hon. Speaker pursuant to Standing Order 225(2) (b) reported to the House a Petition by the Consumer Federation of Kenya regarding fraudulent medical bill issued by MP Shah Hospital, Nairobi on account of treatment of the late Matilda Anyango.

Pursuant to Standing Order 227, the Petition was referred to the Departmental Committee on Health for its processing. The Committee considered the prayers sought by the petitioner which were to investigate the matter with a view to having the hospital bill charged for the treatment of the late Matilda Anyango reviewed and consider enacting a legislation to regulate the cost of medical treatment and procedures so as to curb increasing cases of fraud in billing of medical services and insurance covers.

The Committee appreciates the assistance provided by the Office of the Speaker and the Clerk of the National Assembly that enabled it to discharge its functions in considering the petition. On behalf of the Committee, and pursuant to Standing Order, 227(2) it is my pleasant honour to table before the House the Report of the Committee on the Petition by the Consumer Federation of Kenya regarding fraudulent medical bill issued by M.P. Shah Hospital, Nairobi on account of treatment of the late Matilda Anyango.

Signed  Date..... 13/11/18

Hon. Sabina Chege, MP
Chairperson, Departmental Committee on Health

EXECUTIVE SUMMARY

The Committee in responding to the prayers by Consumer Federation of Kenya (COFEK), sought views from the Ministry of Health, held meeting with the petitioner, the management of M.P. Shah Hospital, Nairobi and Kenya Medical Practitioners & Dentists Board (KMPDB) who in their interaction with the Committee made written and oral submissions.

The Committee noted that the late Matilda's case was not an isolated case and that Kenyans continue to suffer expensive health care. Some hospitals have been reported to subject Kenyans to unnecessary admissions, unjustified excessive hidden costs, excess diagnostic tests and exaggerated prescriptions.

The Committee heard from the petitioner that the late Matilda's case was among many cases and that the practice was widespread within private hospitals and that this threatens the nation's healthcare sector and measures must be put in place with a view of protecting Kenyans from being served with outrageous medical bills.

The Committee noted that indeed M.P. Shah Hospital, Nairobi provided emergency treatment to the late Ms. Matilda Anyango as is envisaged by *Article 43 (2) of the Constitution* which states, inter alia, that *"A person shall not be denied emergency medical treatment..."* . The hospital has since waived the entire bill charged to the patient, a move that it refers to as part of its corporate social responsibility.

The Committee established that deterioration of health services offered at public hospitals provided private profiteers with the opportunity to overcharge Kenyans. There was thus an urgent need to improve the quality of service delivery in public hospitals to provide affordable health care to the public, in turn driving down prices in private facilities.

The Committee is cognizant of Government initiative to implement Universal Health Coverage (UHC) with a view to guarantee all Kenyans access to quality health care by 2022. However this goal would remain a mirage if the cost of health care would not be addressed. The Committee further noted that the existing Medical Practitioners and Dentists (Professional Fees) Rules, 2016 that were gazetted as Legal Notice No 131 in the year 2016 were out of touch with the local scenario, and was at cross purposes with efforts to attain UHC.

Committee Recommendations

- i) *As per the first prayer: "the Committee on Health investigates the matter with a view to having the hospital bill charged for the treatment of the late Matilda Anyango reviewed".*

The Committee finds that the hospital has since waived the entire bill of Kshs. 865,805 and the prayer has therefore been satisfied.

- ii) *As per the second prayer: "Consider enacting a legislation to regulate the cost of medical treatment and procedures so as to curb increasing cases of fraud in billing of medical services and insurance covers"*

The Committee recommends that the Cabinet Secretary, Ministry of Health immediately gazettes the Professional Fees Rules and Guidelines of 2006 (2nd Edition) to replace the current prevailing exorbitant Guidelines.

The Ministry, KMPDB and Pharmacy and Poisons Board then reviews within six months, reasonable Professional Fees Rules and Guidelines, Regulations on cost of service of medical devices and drugs and in general, costing of healthcare, with a view of ensuring that all fees are in tandem with the UHC agenda. This should be done with proper consultations and public participation.

COMMITTEE MANDATE

Mr. Speaker Sir,

The Departmental Committee on Health is established pursuant to the provisions of Standing Order No. 216 of the National Assembly and in line with Article 124 of the Constitution which provides for the establishment of the Committees by Parliament. The mandate and functions of the Committee are;

- a) *Investigate, inquire into, and report on all matters relating to the mandate, management, activities, administration, operations and estimates of the assigned Ministries and departments;*
- b) *Study the programme and policy objectives of the Ministries and departments and the effectiveness of the implementation;*
- c) *Study and review all legislation referred to it;*
- d) *Study, assess and analyze the relative success of the Ministries and departments as measured by the results obtained as compared with its stated objectives;*
- e) *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;*
- f) *Vet and report on all appointments where the constitution or any law requires the National Assembly to approve, except those under Standing Order 204;*
- fa) *Examine treaties, agreements and conventions;*
- g) *Make reports and recommendations to the House as often as possible, including recommendation of proposed legislation;*
- h) *Consider reports of Commissions and Independent Offices submitted to the House pursuant to the provisions of Article 254 of the Constitution; and*
- i) *Examine any questions raised by Members on a matter within its mandate.*

Committee Membership

The Committee comprises the following Honourable Members;

1. Hon. Sabina Chege, MP – Chairperson

2. Hon. Swarup Ranjan Mishra, MP – Vice Chairperson
3. Hon. (Dr.) Eseli Simiyu, MP
4. Hon. (Dr.) James Nyikal, MP
5. Hon. Alfred Agoi Masadia, MP
6. Hon. (Dr.) James Kipkosgei Murgor, MP
7. Hon. Muriuki Njagagua, MP
8. Hon. (Dr.) Mohamed Dahir Duale, MP
9. Hon. Stephen Mule, MP
10. Hon. Chris Karan, MP
11. Hon. Esther M. Passaris, MP
12. Hon. Gladwell Jesire Cheruiyot
13. Hon. Kipsengeret Koros, MP
14. Hon. Martin Peters Owino, MP
15. Hon. Mercy Wanjiku Gakuya, MP
16. Hon. Prof. Mohamud Sheikh Mohamed, MP
17. Hon. Patrick Munene Ntwiga, MP
18. Hon. Tongoyo Gabriel Koshal, MP
19. Hon. Zachary Kwenya Thuku, MP

The Committee is supported by the following members of the Secretariat;

- | | | |
|--------------------------------|---|----------------------------|
| 1. Mr. Victor Weke | - | Clerk Assistant I |
| 2. Mr. Muyodi Meldaki Emmanuel | - | Clerk Assistant III |
| 3. Mr. Ahmed Hassan Odhowa | - | Principal Research Officer |
| 4. Ms. Christine Odhiambo | - | Legal Counsel II |
| 5. Mr. Eric Kanyi | - | Fiscal Analyst |
| 6. Ms. Winnie Kiziah | - | Media Officer |
| 7. Ms. Catherine Wangui | - | Serjaent-at-Arms |

1.0 INTRODUCTION

The Petitioner wished to draw to the attention of the House on the following, that;

M.P Shah Hospital, Nairobi charged a medical bill amounting to eight hundred and sixty thousands (KSh. 860,000) Kenya Shillings on account of treatment to one Matilda Anyango now deceased. The petitioner alleged that the medical bills charged were fraudulent as the late Matilda Anyango was admitted and treated for less than twelve hours.

The petitioners pray that the National Assembly, through the Departmental Committee on Health:-

- i. The Committee on Health investigates the matter with a view to having the hospital bill charged for the treatment of the late Matilda Anyango reviewed.
- ii. Consider enacting a legislation to regulate the cost of medical treatment and procedures so as to curb increasing cases of fraud in billing of medical services and insurance covers.

2.0 EVIDENCE

2.1 Consumer Federation of Kenya (COFEK)

Mr. Stephen Mutoro, Secretary General, Consumer Federation of Kenya appeared before the Committee on Thursday 18th October, 2018 and informed it as follows:

1. Being a consumer body with the mandate to defend consumer rights in the country COFEK had received and documented several cases across the country where patients had been served with unexpected medical bills especially in private facilities.
2. Hospitals have devised dishonest ways of capturing more revenue at the expense of unsuspecting patients. These hospitals have been subjecting Kenyans to unnecessary admissions, unjustified excessive hidden costs, excess diagnostic tests and exaggerated prescriptions and many other dubious ways of making money at the expense of poor Kenyans.
3. The matter at hand, i.e. the petition on a fraudulent bill charged by M.P. Shah Hospital on the late Ms. Matilda Anyango was not an isolated case and that they had handled several court cases about fictitious billing by hospitals.
4. The late Matilda Anyango was rushed to the MP Shah Hospital Accident and Emergency department on the night of April 11 2018 after she was found unconscious near her place of residence. According to the hospital, the health workers resuscitated her before she was transferred to theatre for emergency surgery. Her bill ran up to Sh858, 355 after just 10 hours with the surgeon's fee costing a whopping Sh300, 000.
5. The charges and fees came under public scrutiny, touching off outrage on social media with heated conversations about the plight of Matilda's family and the obvious failure of justification of the huge bill. The hospital denied detaining the woman's body, saying that although Matilda did not stay in the facility for long, they claimed the bill was justified by medical procedures conducted on her. In their defense, the hospital claimed that it was staying true to the recommended rates of the Kenya Medical Practitioners and Dentists Board.
6. Based on based on its own investigations and complaints received from consumers across the country COFEK had established several loopholes that hospitals use to exploit patients and their families:

- i) Bills of the same service differ from public hospitals, private hospital and to mission hospitals;
 - ii) Different preliminary costs are charged for patients on demand for admission and based on security provided;
 - iii) Hospitals always defend their billing systems which are often non-negotiable;
 - iv) Some hospitals bill patients depending on the perceived socio-economic status of the patient or their relatives;
 - v) Majority hospitals hold log-books and title deeds and do everything possible to keep the patients for long knowing that majority will lose their attached property.
7. The Secretary General highlighted several issues that were of concern in regard to health and billing systems in Hospitals;
- i. **Surgical Equipment**—the frequency and level billing of surgical equipment contributed to bad pricing leading to a hefty overall bill on patients.
 - ii. **Unnecessary admissions** – Outpatients being compelled to be admitted where admission is not necessary.
 - iii. **Revenue targets** – Most private hospitals that have branches impose unrealistic targets to their staff which leads to inflated bills on the patients.
 - iv. **Hidden costs** – Most (private) hospitals do not clearly justify the excessive amount billed to patients. Mothers who could easily deliver naturally are or made to opt for Caesarian Section which has more financial implications as opposed to natural child birth. This deception is more pronounced on mothers with medical covers
 - v. **Insurance fraud** – collusion by doctors to defraud insurance companies. There is need to come up with a separate Health Insurance Bill which would specify many issues which are exploited by rogue hospitals, doctors and insurance to fleece unsuspecting patients.
 - vi. **Doctors' referral** – Some doctors have some financial benefits / interest with some chemists and refer patients to those specific chemists even with the

availability of the said medication in the Hospital where it is sold at a cheaper rate than in the chemist.

- vii. **Detention of patients** – the patients detained in hospitals as a result of failure to pay the bills are continually billed the same way as patients who are admitted.
 - viii. **Bargain** – Hospitals in the country do not offer patients opportunity to negotiate for a discount from the acquired bill.
 - ix. **Discrimination** – Some hospitals determine the final bill by the security one puts forward.
 - x. **Quality of medicine** – Some hospitals charge expensively for generic medicine and take advantage of the ignorance of the person buying the medicine.
 - xi. **Blood Transfusion** – when blood transfusion is required, most hospitals call for the next and kin and acquaintances to donate blood for the patient and eventually unfairly bill the patient for the transfusion.
 - xii. **Opportunistic billing**–the hospitals inflate the bill of emergency patients who are brought in by strangers since they have no family member or acquaintance to follow up on their bill.
8. As a cure to the above mentioned issues COFEK proposed several recommendations that would help protect patients from this practice of dishonest billing;
- i. Improve the quality of service delivery in public hospitals as this will stop the tendency of private hospitals taking advantage of the massive failures of public hospitals;
 - ii. Come up with legislation that would mandate all hospitals to indicate itemized billing for all services offered (i.e. consultation, lab tests, medicines, accommodation, meals etc.) Such bills should be posted on a daily basis for admitted patients' information and concurrence;
 - iii. All such payments should have a link to KRA PINs; Most hospitals overcharge patients yet they do not pay taxes;

- iv. Ministry of Health should explore the idea of creating Health Complaints Ombudsman in all counties. The office should be occupied by persons equipped with knowledge on health matters;
- v. Create a Health Services Tribunal along the lines of other sectors such as Environment, Law etc. to address the many disputes that remain unresolved. The Public Complaints Committee under KMPDB should be disbanded as it has failed Kenyans;
- vi. Come up with a clear definition of the health financing and term limits and duration for board Chairpersons, Members and CEOs;
- vii. Create Kenya Health Services Regulatory Authority or a Health, Food and Drugs Authority– with representation of individual regulators – from other medical agencies. This will address welfare, discipline, standards and capping rates of medicines, equipment and other services offered by private and public medical facilities;
- viii. Separate policy from regulation at the Ministry of Health and create solid link with the Counties including a requirement that CS for Health tables Quarterly State of Health Reports to Parliament;
- ix. Consumer representation on all health regulatory bodies – as per provisions of Section 94 of the Consumer Protection Act, 2012. Provisions of Article 46 on the Consumer Rights of the Constitution would naturally require consumer representation on; Kenya Radiation Board, National Quality Control Laboratory, Nursing Council of Kenya; Pharmacy and Poisons Board; KEMSA; Kenya Nutritionists and Dieticians Institute which should be restructured.

2.2 MP Shah Hospital

The management of MP Shah Hospital, led by Dr. Manoj Shah, Chairman, Board of Governors appeared before the Committee on Thursday 4th October, 2018 and informed it as follows;

1. The Hospital was founded in early 1930s by prominent philanthropists who had a vision of providing quality care to all without discrimination. The 210-bed facility operates under the umbrella of the Social Service League which is a non-racial, non-religious, non-political charitable institution.
2. As one of the best private hospitals with excellent standards the facility was recognized as level 6B hospital and a national referral facility with ISO 9001:2015 quality management certification.

Chronology of events

3. On 11th April, 2018 at approximately 10.00 pm, a patient by the name Matilda Anyango Sao (ID No. 25764446) was brought into MP Shah Hospital, Nairobi by one Mr. Colince Ouma. The patient had a stab wound on the thigh and was bleeding profusely and was in hypovolemic shock.
4. Upon the patient being received, the Hospital's emergency services staff immediately stabilized the patient and moved her to theatre for an emergency operation to control the excessive bleeding. Collince Ouma who indicated that he was the patient's husband and next of kin gave consent for the said operation.
5. The operation was conducted by Dr. Mohamed Jivanjee, an in-house specialist and a general surgeon. Upon commencement of the surgery, Dr. Jivanjee noted that the patient had sustained vascular injuries, requiring a vascular surgeon to join the operating team in undertaking the surgery. Dr. Jivanjee thereafter requested Dr. H.S Gill, the vascular surgeon on call to join the operating team, who thereafter undertook repair of the damaged blood vessels and surrounding areas.
6. Upon completion of the operation, the patient was admitted at the Hospital's Intensive Care Unit for continued support. Nevertheless the patient developed other complications including hypotension and continued bleeding.
7. The family members were notified of the need to have a second operation to control the excessive bleeding and duly gave their consent. The clinical team decided to take the patient back for surgery to rule out vascular repair site bleeding. Despite the repair work done, the bleeding did not stop, thereby making the clinical team to conclude that the patient had developed Disseminated Intravascular Coagulopathy.

8. The patient continued to be managed with the aid of blood transfusions. Unfortunately her condition deteriorated resulting in the patient being stabilized but sustained another cardiac arrest. Attempts at resuscitation proved futile. She succumbed on 12th April at 9.20 am. The Hospital duly notified her family of her demise.
9. During the time of admission the Mr. Ouma had notified the Hospital that the patient had sustained the stab wound from a robbery attempt at her home in Kangemi. This information prompted the Hospital to call and notify Parklands Police Station on 12th April, 2018 that the Hospital had received and treated a patient with injuries which raised reasonable suspicion that another person/other persons had committed an offence resulting in the injuries and death of the patient. The family of the patient further notified the Hospital that they had also lodged a police report about the incident at Loresho Police Post being OB No. 5/13/4/18.
10. After the demise of the patient, the Hospital attempted to contact Mr. Ouma on several occasions to enable him liaise with the police to arrange for a post-mortem to be done, but the Hospital was unable to reach him as the calls to him went unanswered. Mr. Ouma never called back nor returned to the Hospital.
11. On 23rd April 2018 the family of the patient notified the Hospital that it had authorized Dan Daudi Moro (ID No. 9610958) to issue the family consent for purposes of the post – mortem examination. Mr. Moro duly signed an application for change of particulars for the next of kin to effect the change of particulars in the Hospitals possession.
12. The Hospital thereafter assisted the patient's family by arranging for a post-mortem examination to be done on 24th April, 2018 at the Hospital. The Hospital further contacted Dr. Johansen Oduor, the government pathologist to conduct the examination. Dr. Oduor indicated that he would not be available on 23rd April 2018 but would be available on 24th April 2018.
13. Upon the issuance of consent by Mr. Moro, a post-mortem examination on the body of the patient was conducted on 24th April, 2018 by Dr. Oduor in the presence of the Hospital pathologist, family members of the patient and police officers. The Hospital

thereafter issued a notification of death as required by law and Dr. Oduor issued a burial permit.

14. After the post-mortem examinations, Mr. Moro presented to the Hospital a letter requesting for release of the body to enable the family transfer the body to a cheaper mortuary as they collected funds for funeral expenses. The Hospital thereafter notified the patient's family to make arrangements to collect the patient's body for burial arrangements as the post-mortem examination which was awaited had been finalized.
15. In the meantime, the Hospital shared the Hospital Bill with Mr. Moro who did not challenge or dispute it in any manner. He however indicated that the family did not have the funds at the time but that the family would make arrangements to settle the same at a later stage. Mr. Moro executed a guarantee of payment to settle the outstanding Hospital Bill on 25th April, 2018.
16. The late Matilda Anyango was received and treated as an emergency case and that no payment was requested for the entire period that she was under treatment. In the meantime, the Hospital in furtherance of its corporate social responsibility and humanitarian values and ethos agreed to discount the Hospital Bill and discounted it by Kshs 890,805.
17. The family of the patient subsequently collected the body of the patient for transfer to another mortuary and burial. The Hospital even facilitated the family of the deceased to obtain a pay-bill number from Safaricom Limited, arranging for a post-mortem examination to be conducted even though it was the duty of the police to do so under the law besides discounting the Hospital Bill. The family of the late Matilda later wrote to the Hospital to express gratitude.
18. Since the late Matilda's death occurred in circumstances which raised reasonable suspicion that a criminal offence might have been committed, a post mortem by government pathologist was mandatory as a prerequisite to the release of the body as demanded by law.
19. The Hospital bill was reasonable, accurate and in accordance to the scale of fees applicable at the Hospital and under fees guidelines set out under the Schedule to the Medical Practitioners and Dentist (Professional Fees) Rules 2016.

20. MP Shah Hospital's billing is governed by the hospital's pricing policy and the hospital's policy on professional fees charged by specialists is governed by Medical Practitioners and Dentist (Professional Fees) Rules 2016.
21. On 23rd April, 2018 Medical Practitioners and Dentist Board requested the hospital to submit a comprehensive report regarding the matter together with a copy of the patient's file, an itemized and detailed bill, the Hospital responded to the board's request, however, the board never reported back regarding the same.

2.3 Evidence from the Ministry of Health

In their written submission the Ministry of Health submitted as follows;

1. The Ministry of Health became aware of the case through social media on 18th April, 2018 and an article on the case by one Moses Michira that appeared in the Standard Newspaper of 23rd April, 2018.
2. A team from the Ministry was dispatched to MP Shah Hospital on 18th April, 2018 on a fact finding mission. The team held discussions with the hospital's Assistant Medical Director on the incident and the following was established;

Chronology of events in questions

3. Matilda Anyango was brought taken to MP Shah Hospital outpatient department on 11th April 2018 at around 9.30 pm by relatives from Kangemi with a stab wound on the right thigh.
4. On examination the patient was in cardiogenic shock as she had bled a lot due to the injury and delay in seeking medical attention.
5. Emergency treatment that included airway support, fluid resuscitation and operations theatre attention to stop bleeding was instituted. In theatre, the hospital surgeon realized that the patient had a vascular injury.
6. A consultant vascular surgeon on call, who is not an employee of the hospital, was called in to attend to the vascular injury after which the patient was admitted to the intensive care unit.

7. The patient continued oozing blood from the drainage, procedurally left at the repair site, and this necessitated the team to take her back to theatre for the second time. In theatre, the patient was noted to have signs of Disseminated Intravascular Coagulopathy (DIC).
8. From theatre, the patient was admitted to the intensive care unit for the second time to continue with life support care.
9. Despite the Intensive care support, the patient succumbed to death on 12th April 2018 at around 9.20 am and the body was transferred to the hospital's mortuary.
10. The patient received all the services required before any payment was made. No payment had been made by the time of visit by the MOH team. The hospital shared with the NOH team the itemized interim medical bill that stood at Kshs. 838, 355 as at the time of the MOH team's visit.
11. The hospital informed the team that the relatives had been in constant consultation with the hospital management from the time the patient died exploring various options on how the medical bill could be settled. To this end it was reported that the hospital:
 - i. Had through a letter introduced the relatives to Safaricom Public Limited Company to get a pay bill number for mobilization of funds from well-wishers to assist in clearing the bill;
 - ii. The management board was scheduled to sit on the same day (18/04/2018) to discuss the case and how to go about the bill and / or decide to waive as a case unable to pay;
 - iii. The hospital asserted that any medical bill is not dictated only by the duration of stay in hospital but also by the extent and complexity of the procedure accorded to the patient;
12. Subsequently, the hospital updated the Ministry on the progress made in settling the Medical bill as follows:

- i. The final medical bill at the time of discharge of the body of the deceased totaled Kshs. 890,805; of which the Safaricom pay bill number / relatives of the deceased paid a total of Kshs. 25,000.
- ii. The hospital management offset the balance of Kshs. 865, 805 through their Social Services league welfare account.

13. In order to safeguard public interest and ensure adherence to Constitutional provisions of attainment of quality healthcare for all Kenyans, the Cabinet Secretary for Health through Legal Notice No. 131 (2016) under The Medical Practitioners and Dentists Board Act (Cap. 253) set the fees to be charged by practitioners covered by the Act. Any exploitative deviations from the set fees should be reported to the Medical Practitioners and Dentists Board which is the regulatory body responsible for enforcing the set fees.

14. In addition the Ministry has set policy guidelines, regulations and standards of practice to guide service delivery to Kenyans. Through MoH's agencies, they license and accredit service providers and monitor service delivery in all health facilities. The Ministry is also in the process of implementing the Government initiative on Universal Health care to guarantee all Kenyans access to quality health care.

15. In 2016 the Cabinet Secretary for Health under Section 23 of the Medical Practitioners and Dentists Board Act (Cap. 253), published through Legal Notice No. 131, the medical practitioners and dentists (professional fees) rules that set the fees to be charged by practitioners offering medical or dental services. The fees remain in force and practitioners and institutions registered under the Act are supposed to adhere to them. Any incidents of non-compliance are supposed to be reported to the Medical Practitioner's and Dentists' Board for action.

16. Through a Gazette Notice No. 5627 of 2018, the Cabinet Secretary for Health had constituted a UHC Health Benefit Package Advisory Panel that is in the process of developing among other things, a uniform pricing strategy based on the principles of enabling equitable economic development, financial sustainability, economic efficiency and affordability of healthcare.

17. The panel is expected to develop a portfolio of services and procedures that will be properly costed using actuarial –informed estimates of supply and demand. This will inform a benefit package and provider payment rate for gazettment and enforcement by the Cabinet Secretary.

2.4 Kenya Medical Practitioners & Dentists Board (KMPDB)

Dr. Elly Nyaim Opot on behalf of the Chairperson of the Board and in the company of the Chief Executive Officer and other members of KMPDB appeared before the Committee on 6th November, 2018 and informed it as follows;

1. The attention of the Board to the issue in question was drawn by an article by Moses Michira which appeared in The Standard Newspaper on 23rd April, 2018 which alleged that the family of the Late Matilda Anyango was billed over Kshs. 800,000.00 for treatment given in one night at the M.P. Shah Hospital where she eventually succumbed while undergoing treatment. The article further alleged that the body of the deceased had been detained until the bill was settled in full.
2. Consequently the Board wrote to the M. P. Shah Hospital, by the letter dated 23rd April, 2018 first informing the Hospital that detaining the deceased's body was unethical and also requesting for, among other things, a report addressing the allegations, an itemized bill and a copy of the patient's file.
3. The Hospital responded through a letter dated 26th April, 2018 submitting a report, a copy of the interim bill, patient's treatment summary dated 25th April, 2018, a letter from Dan Moro dated 13th and 24th April, 2018 and a certified copy of the patient's file.
4. The matter was tabled before the Preliminary Inquiry Committee, as PIC Case No 18 of 2018 on 18th May, 2018 wherein the Committee made the following findings;
 - (i) The Late Matilda Anyango was taken to the M. P Shah Hospital on the night of 11th April, 2018 with a stab wound to the right thigh associated with profuse bleeding. By the time she was received at the Hospital's A & E she was in hypovolemic shock and required resuscitation and stabilization. The

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Patient had a cardiac arrest at the emergency unit and was successfully resuscitated.

- (ii) She was taken for emergency surgery where severe vascular injuries were found and a vascular surgeon was involved. Subsequently, she required a re-look surgery due to continued bleeding. She required ICU care after both surgeries. A diagnosis of disseminated intravascular coagulation (DIC) was made during the second operation and appropriate management measures were put in place. She succumbed on 12th April, 2018 at 9.20 am.
- (iii) A post mortem examination carried out on 24th April, 2018 shows the cause of death as severe hemorrhage due to DIC.
- (iv) There is documentary evidence of cordial communication between the relatives of Matilda and MP Shah Hospital prior and after her demise.
- (v) Upon perusal of the itemized interim bill, there appears to be multiple repeated entries and one unexplained entry. Examples of the repeated items included:-
 - a) Kshs. 150,000 for Dr. H.S. Gill appearing once on 11/04/2018 and again on 12/04/2018
 - b) Infusion pump per user – appearing three times on 12/04/2018
 - c) Anaesthesia and anaesthesia gases appearing twice on 12/04/2018
 - d) Hydrocortisone injection 100mg appearing twice on 12/04/2018, but at different costs
 - e) Bacterial filter HME MN 137 appearing twice on 12/04/2018
- (vi) The unexplained item appears on 11/04/2018 charged as Kimberly Nyaguthii Kamau at KShs. 50,000

5. In view of the above findings, the Committee recommended that the matter be scheduled for further inquiry through interview of representatives of the Parties. The Board communicated the recommendations of the Committee to the Hospital by the letter dated 6th July, 2018.

6. In a letter dated 9th October, 2018 the Board invited the Hospital and representatives of the Estate of the Deceased to appear before the Preliminary Inquiry Committee in its meeting scheduled for 26th October, 2018, for the inquiry on the issues relating to the management of the Late Matilda Anyango (Deceased) and the related billings.
7. On 26th October, 2018, the matter was tabled before the Committee and the following parties appeared before it;

- | | | |
|--------|----------------------|---|
| (i) | Mr. Erick Omariba | Advocate for the Deceased |
| (ii) | Mr. Dan Daudi Moro | Brother to the deceased |
| (iii) | Mr. Hiram Nyakundi | Advocate, M P Shah Hospital |
| (iv) | Ms. Toseef Din | Chief Operating Officer, M. P. Shah Hospital |
| (v) | Dr. Vishal Patel | Director of Medical Services, M. P. Shah Hospital |
| (vi) | Dr. Hardeep Gill | Vascular Surgeon at M. P. Shah Hospital |
| (vii) | Dr. Mohamed Jivanjee | General Surgeon at M. P. Shah Hospital |
| (viii) | Dr. Kimberly Kamau | Anesthesiologist at M. P. Shah Hospital |
| (ix) | Dr. Francis Codero | Anesthesiologist at M. P. Shah Hospital |
| (x) | Roshin Jankharia | Head of Finance , M. P. Shah Hospital |
| (xi) | Sr. Marren Chunga | Head of Nursing, M. P. Shah Hospital |

8. Mr. Dan Moro, Dr. Vishal Patel and Toseef Din gave their oral evidence on the matter. The Committee reviewed the patient's file and considered the management of the Patient at the Hospital and upon evaluation of all the documents and evidence adduced before it, the Committee made the following findings:

- i. The Late Matilda Anyango was received at the M P Shah Hospital on 11th April, 2018 at the Accident and Emergency Unit at approximately 10.00 pm with a stab wound to the right thigh associated with profuse bleeding. She was given emergency treatment which included resuscitation for a cardiac arrest and surgery to stop the bleeding. At surgery, the General Surgeon noted that the patient had suffered significant vascular injuries which included laceration of the posterior wall of the femoral vein, complete

transaction of the deep femoral artery and laceration of the lateral aspect of the anterior muscle group of the thigh. A vascular surgeon was called to repair the damage to the blood vessels and surrounding areas. The patient was thereafter admitted to the ICU but she remained hypotensive and continued bleeding from the site. This necessitated a second operation to rule out vascular repair site bleeding. Due to the continued bleeding a diagnosis of DIC was made and the patient was placed on appropriate treatment.

- ii. The first operation was started by Dr. Mohamed Jivanjee a General Surgeon on 11th April, 2018 who later called in Dr. Hardeep Gill a Vascular Surgeon after he realized that the patient had sustained vascular injuries. The second operation was done on 12th April, 2018 by Dr. Hardeep Gill from 5.00 am to 6.45 am. Dr. Kimberly Kamau was the anesthesiologist for the first surgery while Dr. Francis Codero was the anesthesiologist for the second surgery.
 - iii. The two operations were billed on 11th and 12th April, 2018 respectively for the Surgeon and the anesthesiologists. The professional fees charged by the surgeon and the anesthesiologist were within the recommended scope as provided in the Medical Practitioners and Dentists (Professional Fees) Rules, 2016.
 - iv. The interim bill was accurate and reflected the treatment and management provided to the Late Matilda Anyango at the M. P. Shah Hospital.
9. The Committee scrutinized the interim bill submitted by the Hospital and found as follows:

Professional Fees

The Committee considered the treatment and management of the patient vis-a vis the fees levied guided by the **Medical Practitioners and Dentists (Professional Fees) Rules, 2016** and the Professional Fees Guidelines, 4th Edition of 2016, and found that the total bill indicated in interim bill was Kshs. 888, 705.00 with an advance

payment of Kshs. 25,000/= that had been paid through mobile money transfer (MPESA). The Committee notes that Kshs. 402,750/= was payment to the professional services offered by the vascular surgeon and the anesthesiologists while the balance of Kshs. 485,955/= was the fee payable for nursing care, pharmacy, laboratory, equipment, bed and other hospital charges.

No.	Professional Fee Rules 2016	Group B: ASA III, IV, V neonates and specialized surgery			
		Minimum Kshs	Maximum Kshs	Amount billed Kshs	remarks
1.	1 st Operation-Reference time taken for the operation 2 hours and 15 minutes ANAE024, ANAE025 and ANAE026	95,000.00	100,000.00	50,000.00	Amount charged is below the gazetted cost
2.	2 nd Operation- Reference time taken for the operation 2 hours. ANAE024, ANAE025 and ANAE026	95,000.00	100,000.00	50,000.00	Amount charged is below the gazetted cost
3.	Reference: Revascularization Procedure -Acute Vascular post traumatic injuries / Vascular stenting	100,000.00	160,000.00	150,000.00	The amount charged is within the guidelines

Notes

- (i) The Late Matilda Anyango would have been classified as an ASA III to IV (high risk) due to her condition on arrival at the Hospital. The Professional Fees, Rules 2016 under M013 Anaesthesia in particular Anaesthesia specialty fee Group B at ANAE024, ANAE025 and ANAE026 provide for the maximum and minimum fee. At ANAE024 the minimum charge for the 1st half hour is Kshs. 30,000 while the maximum is 35,000/= 2nd half hour is set at a minimum fee of Kshs. 30,000 and a maximum fee of Kshs. 35,000/-.
- (ii) The Committee notes that the first operation took approximately 2 hours and 25 minutes starting at 11.45pm and ending at 2.10am. In view of the time the professional fee for the anesthesiologist would be a minimum of Kshs. 95,000/= and a maximum of Kshs. 100,000/=. For the 1st operation the professional fee billed for the anesthesiologist Dr. Kimberly Kamau was Kshs. 50,000/=. The Committee also notes that the 2nd Operation took approximately two (2) hours and in view of the time the professional fee for the anesthetist would have be a minimum of Kshs. 95,000/= and a maximum of Kshs. 100,000/=. The professional fee billed for the anesthesiologist Dr. Francis Codero was Kshs. 50,000/=
- (iii) The Professional Fees Guidelines, 2016 under **M007 Cardiothoracic and Vascular Surgery (A) *Complex Major*** in particular CARV516 indicates the minimum and maximum fee for the repair of traumatic arterial transection as Kshs. 90,000/= and 144,000/= respectively. The Committee notes that the Professional Fee Rules, 2016 do not indicate the fee for traumatic venous repair. However, the Rules do provide the minimum and maximum fee for Acute Vascular post traumatic injuries / Vascular stenting at Kshs. 100,00/= and 150,000/= respectively. In view of this, the Committee finds that the fee billed for the professional services of the vascular surgeon are within the recommended guidelines.
- (iv) The noting that the general surgeon who was involved in the 1st surgery did not bill for his professional fees.

10. The Committee also considered the itemized bill noted that there were items that appeared to have been billed more than once and on interrogation of the Hospital found that the items were indeed used for the treatment of the patient.

(i) The three infusion pumps items No 13, 22 and 34 billed on 12th April, 2018 were used to administer different drugs, the two Bacterial Filter HME MN 137 items No 78 and 79 were also used for the patient with one being attached to the end of the endotracheal tube while the other is attached at the end to the ventilator.

(ii) The patient was also given 9 units of packed cells and 4 units of fresh frozen plasma. The hydrocortisone injections which appeared as item 55 and 56 were billed according to the batch price thereby having a different price for the same medicine.

11. The Committee held that the Medical Practitioners and Dentists Board does not have jurisdiction over the regulation of cost of medical devices and drugs as it falls under the ambit of the other Regulatory Bodies, including the Pharmacy and Poisons Board.

12. The development of fees guidelines commenced more than 15 years ago having been initiated by the Kenya Medical Association, in consultation with the Board. Arising from the said process there were initial Fee Guidelines which had been developed and published but not gazetted. There need for gazettelement was necessitated by the realization that the Fee Guidelines for Medical /Dental Practitioners, 3rd Edition (2013), had not provided for majority of procedures done locally and it was also deemed as not legally binding. Consequently the Cabinet Secretary of Health gazetted the Medical Practitioners and Dentists (Professional Fees) Rules, 2016. Thereafter the Professional Fee Guidelines, 4th Edition =, 2016 was extracted and published.

13. It is on this background that the process of reviewing guidelines was started in 2015. As is procedure, the Board vide letters dated 27th March, 2015 informed its stakeholders that it had begun the process and also requested for submissions.

14. In response thereto, stakeholders submitted their proposed charges for various procedures. The Board received proposals from among others;

- i. Kenya Ear Nose Throat Society
- ii. The Kenya Association of Radiologists
- iii. Kenya Association of Urological Surgeons (KAUS)
- iv. Kenya Association of Clinical Pathologists
- v. Kenya Society of Anesthesiologists
- vi. Kenya Dental Association
- vii. College of Ophthalmology of Eastern, Central and Southern Africa
- viii. Kenya Association of Physicians
- ix. Kenya Association of Paediatric Surgeons;
- x. Kenya Society of Obstetricians and Gynecologists.

15. The reports received from the stakeholders were presented to the Technical Working Group which was mandated to compile the submissions and prepare a report for discussion by stakeholders. The report was discussed in a stakeholders meeting held on 6th May, 2016 at the Panafric Hotel. After the stakeholder workshop the second TWG composed of Chairs of Board Committee's, Rapporteurs, Secretariat and the Legal team were tasked with the editing of the document and preparing Legal Notices for gazettelement. The Medical Practitioners and Dentists (Professional) Fees Rules were gazetted as Legal Notice No 131 Kenya Subsidiary Legislation, 2016

16. The Board noted that the Medical Practitioners and Dentists (Professional Fees) Rules, 2016 were gazetted as Legal Notice No 131 in the year 2016 and this was before the Big Four Agenda which included Universal Health Coverage was launched. The Professional Fees Rules and Guidelines are subject to review and the Board shall endeavor to ensure that the fees are in tandem with the UHC agenda.

The Board also presented to the Committee an analysis of various complaints filed by members of the public to the board on bills.

3.0 FINDINGS

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

1. The late Ms. Matilda Anyango was not an isolated case. Many Kenyans have and continue to be charged exorbitant bills;
2. Poor state of public healthcare infrastructure and service delivery has provided private hospitals with the opportunity to prize their services highly;
3. There have been cases of patients being subjected to unnecessary admissions, unjustified excessive hidden costs, excess diagnostic tests and exaggerated prescriptions, by private hospitals;
4. The MP Shah's bill was within the scale of fees applicable at the hospital and under fees guidelines set out under the Schedule to the Medical Practitioners and Dentist (Professional Fees) Rules 2016;
5. The hospital's Social Services league welfare account offset Kshs. 865, 805 balance of the bill after Kshs. 25,000 was paid as deposit by the kin of the patient;
6. The existing Medical Practitioners and Dentists (Professional Fees) Rules, 2016 that were gazetted as Legal Notice No 131 are out of touch with the UHC agenda. They were in fact done in consultations with practitioners with no input from consumers and the general public. KMPDB went further and benchmarked with economies that are far superior to the country's;
7. The cost of healthcare in the country could only be tackled through a comprehensive multifaceted approach. Other than professional fees charged, the government must address human resources for health, public infrastructure and access to health, availability of medicines, cost of medical devices etc.

4.0 RECOMMENDATIONS

- i) As per the first prayer: *“the Committee on Health investigates the matter with a view to having the hospital bill charged for the treatment of the late Matilda Anyango reviewed”*.

The Committee finds that the hospital has since waived the entire bill of Kshs. 865,805 and the prayer has therefore been satisfied.

- ii) As per the second prayer: *“Consider enacting a legislation to regulate the cost of medical treatment and procedures so as to curb increasing cases of fraud in billing of medical services and insurance covers”*

The Committee recommends that the Cabinet Secretary, Ministry of Health immediately gazettes the Professional Fees Rules and Guidelines of 2006 (2nd Edition) to replace the current prevailing exorbitant Guidelines.

The Ministry, KMPDB and Pharmacy and Poisons Board then reviews within six months, reasonable Professional Fees Rules and Guidelines, Regulations on cost of service of medical devices and drugs and in general, costing of healthcare, with a view of ensuring that all fees are in tandem with the UHC agenda. This should be done with proper consultations and public participation.

ANNEXURE; Minutes of the Committee's sittings

MINUTES OF THE NINETY FOURTH (94TH) SITTING OF THE
DEPARTMENTAL COMMITTEE ON HEALTH HELD ON TUESDAY 6TH
NOVEMBER 2018, IN MEDIA CENTRE, PARLIAMENT BUILDINGS, AT 9.00
AM

PRESENT

1. Hon. Sabina Chege, MP – Chairperson
2. Hon. (Dr.) Swarup Ranjan Mishra, MP - Vice Chairperson
3. Hon. (Dr.) James Nyikal, MP
4. Hon. (Dr.) Eseli Simiyu, MP
5. Hon. (Dr.) James Kipkosgei Murgor, MP
6. Hon. Muriuki Njagagua, MP
7. Hon. Gladwell Jesire Cheruiyot, MP
8. Hon. Martin Peters Owino, MP
9. Hon. Mercy Wanjiku Gakuya, MP
10. Hon. (Prof.) Mohamud Sheikh Mohamed, MP
11. Hon. Patrick Munene Ntwiga, MP
12. Hon. Zachary Kwenya Thuku, MP

ABSENT WITH APOLOGIES

1. Hon. (Dr.) Mohamed Dahir Duale, MP
2. Hon. Tongoyo Gabriel Koshal, MP
1. Hon. Alfred Agoi Masadia, MP
2. Hon. Stephen Mule, MP
3. Hon. Kipsengeret Koros, MP
4. Hon. Esther M. Passaris, MP
5. Hon. Chris Karan, MP

NATIONAL ASSEMBLY

- | | | |
|--------------------------------|---|----------------------------|
| 1. Mr. Victor Weke | - | Clerk Assistant I |
| 2. Mr. Muyodi Meldaki Emmanuel | - | Clerk Assistant III |
| 3. Ms. Christine Odhiambo | - | Legal Counsel II |
| 4. Mr. Ahmed Odhowa | - | Principal Research Officer |
| 5. Ms. Fatuma Abdi | - | Audio Officer |

IN-ATTENDANCE

KENYA MEDICAL PRACTITIONERS AND DENTISTS BOARD (KMPDB)

- | | | |
|---------------------------|---|------------|
| 1. Prof. Alice Mutungi | - | Vice Chair |
| 2. Dr. Elly Nyaim Opot | - | Member |
| 3. Dr. Fredrick Kairithia | - | Member |
| 4. Dr. Nelly K. Bosire | - | Member |
| 5. Dr. Pacifica Onyancha | - | Member |

MINISTRY OF HEALTH

- | | | |
|------------------------|---|---|
| 1. Mrs. Sicily Kariuki | - | Cabinet Secretary |
| 2. Mr. Peter K. Tum | - | Principal Secretary |
| 3. Dr. Rashid A. Aman | - | Chief Administrative Secretary |
| 4. Dr. David Kariuki | - | Head of Policy, Planning and Health Financing |
| 5. Mr. Ibrahim Abdi | - | Administration/ Parliamentary Liaison |

MIN. NO.NA/C.H/2018/354: PRELIMINARIES

The Chairperson called the meeting to order at 9.23 am and said a prayer. She then invited all present to a round of introductions.

MIN. NO.NA/C.H/2018/355: EVIDENCE FROM MEDICAL PRACTITIONERS AND DENTISTS BOARD (KMPDB) ON PETITION BY COFEK ON FRAUDULENT MEDICAL BILL BY MP SHAH HOSPITAL

Dr. Elly Nyaim Opot on behalf of the Chairperson and in the company of the Vice-Chairperson and the Chief Executive Officer and other members of KMPDB appeared before the Committee and informed it follows;

1. It was through social media and an article by Moses Michira which appeared in the Standard Newspaper of 23rd April, 2018 that the Board learnt of the late Matilda's case. Consequently the board wrote to MP Shah Hospital on 23rd April, 2018 and requested for among other things, a report addressing the allegations, an itemized bill and a copy of the Patient's file.
2. The Hospital responded through a letter dated 26th April, 2018 and it submitted a report, a copy of the interim bill, patient's treatment summary dated 25th April, 2018, a letter from Dan Moro dated 13th and 24th April, 2018 and a certified copy of the patient's file.
3. The Board referred the complaint to a Preliminary Inquiry Committee (PIC) as provided by the Medical Practitioners and Dentists Act, Chapter 253 of the Laws of Kenya and the Medical Practitioners and Dentists (Disciplinary Proceedings) (Procedure) Rules. After its preliminary findings the Committee recommended that the matter be scheduled for further inquiry through interview of representatives of the parties. The Board communicated the recommendations of the Committee to the Hospital by the letter dated 6th July, 2018.

4. In a letter dated 9th October, 2018 the Board invited the Hospital and representatives of the Estate of the Deceased to appear before the Preliminary Inquiry Committee. On 26th October, 2018, the PIC conducted an inquiry on the issues relating to the management of the Late Matilda Anyango (deceased) and the related billings and the following parties appeared before it;

- i. Mr. Erick Omariba - Advocate for the Deceased
- ii. Mr. Dan Daudi Moro - Brother to the deceased
- iii. Mr. Hiram Nyakundi - Advocate, M P Shah Hospital
- iv. Ms. Toseef Din - Chief Operating Officer, M. P. Shah Hospital
- v. Dr. Vishal Patel - Director of Medical Services, M. P. Shah
- vi. Dr. Hardeep Gill - Vascular Surgeon at M. P. Shah Hospital
- vii. Dr. Mohamed Jivanjee - General Surgeon at M. P. Shah Hospital
- viii. Dr. Kimberly Kamau - Anaesthesiologist at M. P. Shah Hospital
- ix. Dr. Francis Codero - Anaesthesiologist at M. P. Shah Hospital
- x. Roshin Jankharia - Head of Finance , M. P. Shah Hospital
- xi. Sr. Marren Chunga - Head of Nursing, M. P. Shah Hospital

5. During the inquiry the PIC considered oral evidence on the matter from the above mentioned persons, reviewed the patient's file, and scrutinized the itemized bill presented by the hospital. The Committee concluded that the Late Matilda Anyango received appropriate care at the M.P. Shah Hospital and the fees charged were within the prescribed guidelines.

6. Board noted that it could not regulate some of the fees that were charged on the account of treatment of the late Matilda i.e. fees for casualty procedure, pharmacy charges, theater gases, nursing charges, equipment fees, bed charges and other hospital charges that totaled to Kshs 485,955 and this was because the Board does not have jurisdiction over the regulation of cost of medical devices and drugs as it falls under the ambit of other Regulatory Bodies, including the Pharmacy and Poisons Board.

7. The Board also noted that there was a need to review the existing Medical Practitioners and Dentists (Professional Fees) Rules, 2016 that was gazetted as Legal Notice No 131 in the year 2016 with a view to ensure that the fees are in tandem with the UHC agenda.

8. The Board further presented before the Committee some of the analysis of complaints received by the Board on issues of billing before and after the gazettelement of the Medical Practitioners and Dentists (Professionals Fees) Rules, 2016.

Committee observations:

1. The existing Medical Practitioners and Dentists (Professional Fees) Rules, 2016 that were gazetted as Legal Notice No 131 are out of touch with the UHC agenda. They were in fact done in consultations with practitioners with no input from consumers and the general public. KMPDB went further and benchmarked with economies that are far superior to the country's;
2. The cost of healthcare in the country could only be tackled through a comprehensive multifaceted approach. Other than professional fees charged, the government must address human resources for health, public infrastructure and access to health, availability of medicines, cost of medical devices etc.

MIN. NO.NA/C.H/2018/356: BRIEFING BY THE CABINET SECRETARY, MINISTRY OF HEALTH (MOH) ON THE STEPS SO FAR TAKEN TOWARDS REALIZATION OF UNIVERSAL HEALTH COVERAGE (UHC)

Mrs. Sicily Kariuki, Cabinet Secretary informed the Committee as follows;

1. Since the President's declaration of UHC as a Big Four Agenda the MOH had been involved in intensive planning exercise to ensure its realization. This included the development of key strategic documents including the Kenya Health Sector Strategic and Investment Plan, the UHC Roadmap, the UHC Monitoring and Evaluation Framework that will guide implementation of the overarching UHC Agenda.
2. The Ministry is cognizant of the current economic constraints facing people in the country, including the limited fiscal space for health, and thus the need to take a pragmatic approach towards the implementation of the UHC Agenda through leveraging on efficiency gains and investing in the public health sector while harnessing private sector participation and collaboration.
3. The initial proposed approach to UHC implementation involved provision of Health Insurance Subsidies for all Kenyans. The resource estimates for this approach is KShs. 22,000 per Household, thus an additional requirement of KShs.

254 Billion annually. The second scenario involved targeting of 68% of the population and 40% of the population who are poor or very poor, with the attendant limitations of targeting including the risk of leaving out the poor. The third and adopted scenario involves investment in the health systems building blocks.

4. The Government was committed to implementing UHC through a phased approach to learn lessons from the phase I implementation before scaling up to the whole country. To ensure the population in the four phase I Counties(Isiolo, Kisumu, Machakos and Nyeri) continue enjoying access to quality services, the Government had adopted an approach of implementation of UHC with details as follows;

- Strengthening health systems at the County level (with emphasis on human resources for health, health information systems
- Strengthening community health services
- Strengthening public health services
- Ensuring availability of essential commodities and basic equipment at the facility level
- Additionally, a fund for specialized services will be set aside to enable the indigent population in the four counties access specialized services

5. The key implementation arrangements of the current adopted approach include;

- i) Disbursement of the 'Conditional Grant User Fees Foregone' 'in kind' in pre-determined and agreed upon proportions of (Medicines, Non-Pharmaceutical supplies, Lab commodities, Dental and Diagnostics) thus ensuring that key inputs of the Health Systems are available at all times to patients.
- ii) Provision of KEMSA drawing rights to County Governments Operationalization of a joint Inter-government conditional grant framework that outlines key conditions that must be met by County Governments for the disbursement of Funds.
- iii) Strengthening of Quality of Health Services and the joint Institutionalization of complaint redress mechanisms.
- iv) Implementation of Community Health Strategy through the deployment of 75,000 Community Health Workers.

- v) Progressive recruitment of frontline Health workers including Nurses and Clinical Officers and other critical health human resources for health.
6. The value proposition of the new model includes;
 - a) A pathway to progressive universalism, where all Kenyans will be able to access a set of defined services in public health facilities
 - b) The new approach offers a stepping stone towards improved financial protection for the poor
 - c) The new approach will lead to strengthening of the public health system
 - d) The new approach allows for structured and strategic reforms in key implementing agencies including Kemsca and NHIF
 - e) The new approach is a transitional and intermediary step towards the roll out of a social health insurance model
 7. The resource requirements for the new approach were obtained through a resource allocation formula that took into account the following key variables;
 - i) County Population,
 - ii) Equitable Share, Poverty Estimates,
 - iii) Outpatient and Inpatient Utilization Rates,
 - iv) County Burden of Disease Index,
 - v) Crude Death Rate,
 - vi) Health Facility Density
 - vii) Average Distance travelled to access a Facility
 8. The Cabinet Secretary pointed out areas where the MOH would require the Committee on Health support and their role in the roll out of this new model in the following areas;
 - **Community Advocacy and Awareness of the UHC program-** Members would be pivotal in advocating for community awareness and utilization of health services, and improving the health seeking behavior of their constituents.
 - **Resource Mobilization-** Members would be instrumental in ensuring the adequate financing of the UHC Program at scale up and ensuring sufficient allocation of the resources in the budgetary allocations.
 - **Legal and Regulatory Framework -** roll out of the UHC Program at scale would require a robust legal and regulatory framework. The MoH had identified key tenets that would require legislation for the successful implementation and sustainability of the program.

MIN. NO.NA/C.H/2018/357: ANY OTHER BUSINESS

Health Laws (Amendment) Bill

The Committee was informed that some provisions in both the Pharmacy and Poisons Act (Cap. 244) and Kenya Medical Supplies Authority Act in the Health Laws (Amendment) Bill had elicited sharp reactions from many quarters in the industry. The Committee deliberated at length and reached consensus on the contentious provisions in both Acts, and agreed on a recommittal.

MIN. NO.NA/C.H/2018/358: ADJOURNMENT

There being no other business, the meeting adjourned at 2.04 pm. Next meeting to be held on 8th November, 2018.

Sign..... Date..... 13/11/18

(Chairperson)

MINUTES OF THE NINETY SECOND (92ND) SITTING OF THE DEPARTMENTAL COMMITTEE ON HEALTH HELD ON THURSDAY 18TH OCTOBER, 2018 IN COMMITTEE ROOM 4TH FLOOR, CONTINENTAL HOUSE, PARLIAMENT BUILDINGS, AT 9.30 AM

PRESENT

1. Hon. Sabina Chege, MP – Chairperson
2. Hon. (Dr.) James Kipkosgei Murgor, MP
3. Hon. (Dr.) James Nyikal, MP
4. Hon. (Dr.) Mohamed Dahir Duale, MP
5. Hon. Muriuki Njagagua, MP
6. Hon. Gladwell Jesire Cheruiyot, MP
7. Hon. (Prof.) Mohamud Sheikh Mohamed, MP
8. Hon. Tongoyo Gabriel Koshal, MP
9. Hon. Zachary Kwenya Thuku, MP

ABSENT WITH APOLOGIES

1. Hon. (Dr.) Swarup Ranjan Mishra, MP - Vice Chairperson
2. Hon. (Dr.) Eseli Simiyu, MP
3. Hon. Alfred Agoi Masadia, MP
4. Hon. Stephen Mule, MP
5. Hon. Martin Peters Owino, MP
6. Hon. Mercy Wanjiku Gakuya, MP
7. Hon. Patrick Munene Ntwiga, MP
8. Hon. Kipsengeret Koros, MP
9. Hon. Esther M. Passaris, MP
10. Hon. Chris Karan, MP

NATIONAL ASSEMBLY

- | | | |
|--------------------------------|---|---------------------|
| 1. Mr. Victor Weke | - | Clerk Assistant I |
| 2. Mr. Muyodi Meldaki Emmanuel | - | Clerk Assistant III |
| 3. Ms. Christine Odhiambo | - | Legal Counsel II |
| 4. Ms. Winnie Kiziah | - | Media Officer |
| 5. Ms. Fatuma Abdi | - | Audio Officer |

IN-ATTENDANCE

CONSUMER FEDERATION OF KENYA (COFEK)

1. Stephen Mutoro – Secretary General
2. Benjamin Langwen – Vice Chairman
3. Victor Ochieng Gilo – Programming Officer

MIN. NO.NA/C.H/2018/346: PRELIMINARIES

The Chairperson called the meeting to order at 9.48 am and said a prayer. She then invited all present to a round of introductions.

MIN. NO.NA/C.H/2018/347: SUBMISSION BY MR. STEPHEN MUTORO, SECRETARY GENERAL, COFEK

Mr. Stephen Mutoro, Secretary General, Consumer Federation of Kenya informed the Committee as follows:

Being a consumer body with the mandate to defend consumer rights in the country they had received and documented several cases across the country where patients had been served with unexpected medical bills especially in private facilities.

He said that the matter at hand, i.e. the petition on a fraudulent bill charged by M.P. Shah Hospital on the late Ms. Matilda Anyango was not an isolated case and that they had handled several court cases about fictitious billing by hospitals.

He added that certain hospitals had devised dishonest ways of capturing more revenue at the expense of unsuspecting patients. These hospitals have been subjecting Kenyans to unnecessary admissions, unjustified excessive hidden costs, excess diagnostic tests and exaggerated prescriptions and many other dubious ways of making money at the expense of poor Kenyans.

He further expounded on the loopholes that MP Shah Hospital and others use to exploit patients and their families and based on its own investigations and complaints received from consumers across the country COFEK had established that;

- i) Bills of the same service differ from public hospitals, private hospital and to mission hospitals;
- ii) Different preliminary costs are charged for patients on demand for admission and based on security provided;
- iii) Hospitals always defend their billing systems which are often non-negotiable;
- iv) Some hospitals bill patients depending on the perceived socio-economic status of the patient or their relatives;
- v) Majority hospitals hold log-books and title deeds and do everything possible to keep the patients for long knowing that majority will lose their attached property.

He highlighted several issues that were of concern in regard to health and billing systems in Hospitals;

1. **Surgical Equipment**—the frequency and level billing of surgical equipment contributed to bad pricing leading to a hefty overall bill on patients.

2. **Unnecessary admissions** – Outpatients being compelled to be admitted where admission is not necessary.
3. **Revenue targets** – Most private hospitals that have branches impose unrealistic targets to their staff which leads to inflated bills on the patients.
4. **Hidden costs** – Most (private) hospitals do not clearly justify the excessive amount billed to patients. Mothers who could easily deliver naturally are or made to opt for Caesarian Section which has more financial implications as opposed to natural child birth. This deception is more pronounced on mothers with medical covers
5. **Insurance fraud** – collusion by doctors to defraud insurance companies. This is need to come up with a separate Health Insurance Bill which would specify many issues which are exploited by rogue hospitals, doctors and insurance to fleece unsuspecting patients.
6. **Doctors' referral** – Some doctors have some financial benefits / interest with some chemists and refer patients to those specific chemists even with the availability of the said medication in the Hospital where it is sold at a cheaper rate than in the chemist.
7. **Detention of patients** – the patients detained in hospitals as a result of failure to pay the bills are continually billed the same way as patients who are admitted.
8. **Bargain** – Hospitals in the country do not offer patients opportunity to negotiate for a discount from the acquired bill.
9. **Discrimination** – Some hospitals determine the final bill by the security one puts forward.
10. **Quality of medicine** – Some hospitals charge expensively for generic medicine and take advantage of the ignorance of the person buying the medicine.
11. **Blood Transfusion** – when blood transfusion is required, most hospitals call for the next and kin and acquaintances to donate blood for the patient and eventually unfairly bill the patient for the transfusion.
12. **Opportunistic billing**–the hospitals inflate the bill of emergency patients who are brought in by strangers since they had no family member or acquaintance to follow up on their bill.

As a cure to the above mentioned issues COFEK proposed several recommendations that would help protect patients from this practice of dishonest billing;

- (a) Improve the quality of service delivery in public hospitals as this will stop the tendency of private hospitals taking advantage of the massive failures of public hospitals;
- (b) Come up with legislation that would mandate all hospitals to indicate itemized billing for all services offered (i.e. consultation, lab tests, medicines, accommodation, meals etc.) Such bills should be posted on a daily basis for admitted patients' information and concurrence;
- (c) All such payments should have a link to KRA PINs; Most hospitals overcharge patients yet they do not pay taxes;
- (d) Ministry of Health should explore the idea of creating Health Complaints Ombudsman in all counties. The office should be occupied by persons equipped with knowledge on health matters;
- (e) Create a Health Services Tribunal along the lines of other sectors such as Environment, Law etc. to address the many disputes that remain unresolved. The Public Complaints Committee under KMPDB should be disbanded as it has failed Kenyans;
- (f) Come up with a clear definition of the health financing and term limits and duration for board Chairpersons, Members and CEOs;
- (g) Create Kenya Health Services Regulatory Authority or a Health, Food and Drugs Authority– with representation of individual regulators – from other medical agencies. This will address welfare, discipline, standards and capping rates of medicines, equipment and other services offered by private and public medical facilities;
- (h) Separate policy from regulation at the Ministry of Health and create solid link with the Counties including a requirement that CS for Health tables Quarterly State of Health Reports to Parliament;
- (i) Consumer representation on all health regulatory bodies – as per provisions of Section 94 of the Consumer Protection Act, 2012. Provisions of Article 46 on the Consumer Rights of the Constitution would naturally require consumer representation on; Kenya Radiation Board, National Quality Control Laboratory, Nursing Council of Kenya; Pharmacy and Poisons Board; KEMSA; Kenya Nutritionists and Dieticians Institute which should be restructured.

Committee observations

- I. The Committee noted that the issues raised by COFEK were pertinent and of major concern to the country's health sector and that some aspects pointed out would be addressed with the amendments to the Health law and full operationalization of the Health Act.

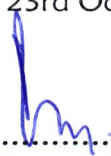
- II. Members appreciated the work done by COFEK in defending consumer rights in the country, however, it noted that its works would be well recognized and appreciated if they could be strategic in their modus operandi.
- III. The Committee also noted that as defender of consumer rights it was important for COFEK to be involved in all interactive fora regarding health issues in the country.

MIN. NO.NA/C.H/2018/348:

ADJOURNMENT

There being no other business, the meeting adjourned at 12.04 pm. Next meeting to be held on 23rd October, 2018.

Sign.....



Date.....

23/10/18

(Chairperson)

MINUTES OF THE EIGHTY FIFTH (85TH) SITTING OF THE DEPARTMENTAL COMMITTEE ON HEALTH HELD ON THURSDAY 4TH OCTOBER, 2018 IN COMMITTEE ROOM , 4TH FLOOR, CONTINENTAL HOUSE, AT 9.30 AM

PRESENT

1. Hon. Sabina Chege, MP – Chairperson
2. Hon. (Dr.) Eseli Simiyu, MP
3. Hon. Muriuki Njagagua, MP
4. Hon. (Dr.) James Kipkosgei Murgor, MP
5. Hon. (Dr.) Mohamed Dahir Duale, MP
6. Hon. Kipsengeret Koros, MP
7. Hon. Zachary Kwenya Thuku,MP

ABSENT WITH APOLOGIES

1. Hon. (Dr.) Swarup Ranjan Mishra, MP - Vice Chairperson
2. Hon. (Dr.) James Nyikal, MP
3. Hon. Martin Peters Owino, MP
4. Hon. Mercy Wanjiku Gakuya, MP
5. Hon. Stephen Mule, MP
6. Hon. Esther M. Passaris, MP
7. Hon. Gladwell Jesire Cheruiyot, MP
8. Hon. (Prof.) Mohamud Sheikh Mohamed, MP
9. Hon. Tongoyo Gabriel Koshal, MP
10. Hon. Chris Karan, MP
11. Hon. Patrick Munene Ntwiga, MP
12. Hon. Alfred Agoi Masadia, MP

NATIONAL ASSEMBLY

- | | | |
|--------------------------------|---|---------------------|
| 1. Mr. Victor Weke | - | Clerk Assistant I |
| 2. Mr. Muyodi Meldaki Emmanuel | - | Clerk Assistant III |
| 3. Ms. Fatuma Abdi | - | Audio Officer |
| 4. Ms. Catherine Wangui | - | Sergeant-At-Arms |

IN-ATTENDANCE

CONSUMER FEDERATION OF KENYA (COFEK)

1. Stephen Mutoro – Secretary General
2. Benjamin Langwen – Vice Chairman

3. Victor Ochieng Gilo

M.P. SHAH HOSPITAL

1. Dr. Manoj Shah – Chairman, Board of Governors
2. Dr. Manilal Dodhia – Vice Chairman, Board of Governor
3. Toseef Din – Chief Operations Officer
4. Dr. Vishal Patel – Medical Director
5. Roshni Jankharia – Head of Finance
6. Dr. Hardeep Gill – Consultant Vascular Surgeon
7. Sr. Marren Chunga – Head of Nusring
8. Dr. Frank Codero – Consultant Anaethetist

MIN. NO.NA/C.H/2018/322: PRELIMINARIES

The Chairperson called the meeting to order at 9.45 am and said a prayer, followed by a round of introductions.

MIN. NO.NA/C.H/2018/323: EVIDENCE BY STEPHEN MUTORO, SECRETARY GENERAL

Stephen Mutoro, Secretary General, Consumer federation of Kenya requested for rescheduling of their appearance before the Committee as they were unprepared. The Committee acceded to the request and resolved to reschedule the meeting to Thursday 11th October, 2018.

MIN. NO.NA/C.H/2018/324: EVIDENCE BY M.P SHAH HOSPITAL

M.P. Shah Hospital management lead by Dr. Manoj Shah– Chairman, Board of Governors informed the Committee as follows:

1. The Hospital was founded in early 1930s by prominent philanthropists who had a vision of providing quality care to all without discrimination. The 210-bed facility operates under the umbrella of the Social Service League which is a non-racial, non-religious, non-political charitable institution.
2. As one of the best private hospitals with excellent standards the facility was recognized as level 6B hospital and a national referral facility with ISO 9001:2015 quality management certification.
3. The management said that the late Matilda Anyango case was not unique to the facility. They had encountered several other cases of families that had failed to pay for hospital bills.
4. They informed the meeting that the Hospital's billing was governed by the hospital's pricing policy and the hospital's policy on professional fees charged by

specialists was governed by Medical Practitioners and Dentists (Professional Fees) Rules 2016.

5. The Committee was taken through the chronology of the event, details of all the services offered to the late Matilda Anyango and their resultant charges as follows:
 - a. On 11th April 2018 a patient with a stab wound on the thigh was brought into MP Shah Hospital at night by a man known as Collince Ouma, who identified himself as her husband.
 - b. Since she was bleeding profusely the emergency services staff moved her to theatre for an emergency operation to control the excessive bleeding; Collince Ouma gave consent for the operation.
 - c. Operation was conducted by Dr. Mohammed Jivanjee, an in-house specialist and a general surgeon but due to severity of the injury he was joined by Dr. H.S. Gill, the vascular surgeon on call.
 - d. Despite the operation the patient developed other complications that necessitated second operation and subsequent management. Unfortunately, the patient's condition deteriorated and she succumbed in the morning of 12th April 2018.
 - e. They notified Parklands Police Station on 12th April 2018 of the patient they had received and treated at their facility.
 - f. That Hospital's effort to reach Collince Ouma who had identified himself as the spouse proved futile as calls to him went unanswered.
 - g. A post-mortem examination on the body of the patient was conducted on 24th April 2018 by Dr. Oduor. The Hospital thereafter issued a notification of death and Dr. Oduor issued a burial permit.
 - h. The Hospital granted the family their request to transfer the body to a cheaper mortuary as they collected funds for funeral expenses.
 - i. After the Hospital shared with the family the bill it did not challenge or dispute it. However, they indicated they did not have the funds at the time and that they would settle the outstanding Hospital Bill on 25th April 2018.
 - j. However, due to the the financial status of the family and the Hospital corporate social responsibility and humanitarian values and ethos it agreed to discount the Hospital Bill by Kes. 865,805.
 - k. Beside discounting the bill it went ahead and assisted the family by facilitating them to obtain a paybill number from Safaricom Limiteda and arranging for a post-mortem examination of the body.
6. They said that they believed that the bill was reasonable, accurate and in accordance to the scale of fees applicable at the Hospital and under fees guidelines set out under the Schedule to the Medical Practitioners and Dentists (Professional Fees) Rules 2016.
7. They further informed the meeting that on 23rd April 2018, the Medical Practitioners and Dentists Board requested the hospital to submit a comprehensive report regarding this matter together with a copy of the patient's file, an itemized and detailed bill. To which the the hospital responded to on 26th April 2018. But to date they had not received any response from the board regarding the same.

Committee Resolution:

Members resolved to meet with Kenya Medical Practitioners and Dentists Board with a view to clarify issues raised in the meeting i.e that the hospital's bill was based on the medical practitioners and dentists (professional fees) rules as published through Legal Notice No. 131 of 2016 and that it had also engaged with the hospital on the matter.

MIN. NO.NA/C.H/2018/325:

ADJOURNMENT

There being no other business, the meeting adjourned at 12.45 pm.

Sign.....

Date.....

(Chairperson)