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Chair - Committee on
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REPUBLIC OF KENYA

THE NATIONAL ASSEMBLY

TWELFTH PARLIAMENT-SECOND SESSION

COMMITTEE ON IMPLEMENTATION

REPORT ON IMPLEMENTATION STATUS OF

1. **THE DEPARTMENTAL COMMITTEE ON HEALTH REPORT ON THE ALLEGATIONS OF SEXUAL ASSAULT, BREAKDOWN OF EQUIPMENT, SURGICAL MIX-UP AND GENERAL OPERATIONS OF THE KENYATTA NATIONAL HOSPITAL;**
2. **RESOLUTION ON ESTABLISHMENT OF A NATIONAL HEALTH REFERRAL HOSPITAL IN MOMBASA COUNTY; AND**
3. **RESOLUTION ON DECLARATION OF CANCER AS A NATIONAL DISASTER AND ESTABLISHMENT OF A CANCER FUND.**

Directorate of Committee Services
Clerk's Chambers
National Assembly
Parliament Buildings
Nairobi.

August, 2018

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APPENDICES

ADOPTION LIST

MINUTES

COPIES OF SUBMISSIONS

ABBREVIATION AND ACRONYMS

BPR	Business Process Re-engineering
CS	Cabinet Secretary
CT	Computed Tomography
Dr	Doctor
ERP	Enterprise Resource Planning
KMPDB	Kenya Medical Practitioners & Dentist Board
KNH	Kenyatta National Hospital
NHIF	National Hospital Insurance Fund
UoN	University of Nairobi

CHAIRPERSON'S FOREWORD

The Committee on Implementation is mandated to scrutinize resolutions of the House (including adopted Committee reports), petitions and the undertakings given by the National Executive and examine whether such decisions and undertakings have been implemented within the sixty (60) days as provided for in the Standing Orders and whether such implementation has taken place within the minimum time necessary.

After the House adopted the Report of the Departmental Committee on Health on the allegations of sexual assault, breakdown of equipment, surgical mix-up and general operations of the Kenyatta National Hospital and the resolutions on establishment of a National health referral hospital in Mombasa County and declaration of cancer as a National disaster and establishment of a cancer fund, the Committee after the lapse of the sixty (60) days as provided in the Standing Orders, invited the Cabinet Secretary Ministry of Health to appraise it on implementation status of the aforementioned report and resolutions.

The Committee registers its appreciation to the Office of the Speaker and the Clerk of the National Assembly for necessary facilitation and support in the production of this report.

Pursuant to Standing Order 199(6), it is, therefore, my pleasant duty and privilege, on behalf of the Committee on Implementation, to lay this report on the Table of the House.

Hon. Moitalel Ole Kenta, MP

EXECUTIVE SUMMARY

The National Assembly on 29th March, 2018 adopted the Report of the Departmental Committee on Health on the allegations of sexual assault, breakdown of equipment, surgical mix-up and general operations of the Kenyatta National Hospital.

The resolution on establishment of a national health referral hospital in Mombasa County was passed by the House on 14th March, 2018 while the resolution to declare cancer as a national disaster and establishment of a cancer fund to cater for cancer treatment and care was passed on 18th April, 2018. The Committee after sixty (60) days invited the Cabinet Secretary, Ministry of Health on 6th June, 2018 to appraise it on implementation status of the report and the two resolutions. The records of evidence adduced and submissions received by the Committee form the basis of the Committee's findings and recommendations on the implementation status.

The Cabinet Secretary outlined the steps which the Kenyatta National Hospital has undertaken to implement the recommendations of the Department Committee of Health which include hiring a private security firm to enhance security at the Hospital, automating the hospital process and ensuring check and balances are in place to prevent a mix up of patients due for procedures and increased training of medical personnel to cope with a load of patients to the referral hospital.

The Committee recommends that the Ministry of Health continues following up the management of the Kenya National Hospital on the implementation of the recommendations of the Report by the Departmental Committee on Health on allegations of sexual assault, the break-down of equipment, surgical mix-up and general operations of the Kenyatta National Hospital even as it awaits the Board of the Hospital to be fully constituted and thereafter report progress on implementation of the report.

On the resolution on establishment of a National health referral hospital in Mombasa County, the Committee noted that implementation of the resolution is ongoing and will update the House on its progress.

On the resolution to declare cancer as a national disaster and establishment of a cancer fund to cater for cancer treatment and care, the Committee recommends that the Ministry of Health begins the process of declaring Cancer a National Disaster even as they await funding.

1. PART 1

1.0 PREFACE

1.1 MANDATE OF THE COMMITTEE

The Committee on Implementation is a Select Committee of the House established pursuant to the provisions of Standing Order 209 of the National Assembly Standing Orders, with the following terms of reference:-

1. The Committee shall scrutinize the resolutions of the House (including adopted Committee reports), petitions and the undertakings given by the National Executive and examine-
    a) whether or not such decisions and undertakings have been implemented and where implemented, the extent to which they have been implemented; and whether such implementation has taken place within the minimum time necessary; and
    b) whether or not legislation passed by the House has been operationalized and where operationalized, the extent to which such operationalization has taken place within the minimum time necessary.
2. Standing Order 201 further provides that within sixty days of a resolution of the House or adoption of a report of a select committee, the relevant Cabinet Secretary under whose portfolio the implementation of the resolution falls shall provide a report to the relevant committee of the House in accordance with Article 153(4) (b) of the Constitution.
3. The Committee may, therefore, propose to the House, sanctions against any Cabinet Secretary who fails to report to the relevant select Committee on implementation status without justifiable reasons.

1.2 COMMITTEE MEMBERSHIP

Chairperson	The Hon. Moitalel Ole Kenta, MP
Vice Chairperson	The Hon. Godfrey Osotsi, MP
	The Hon. Richard Onyonka, MP
	The Hon. Alois Lentoimaga, MP
	The Hon. Paul Simba Arati, MP
	The Hon. Onesmas Kimani Ngunjiri, MP
	The Hon. George Theuri, MP
	The Hon. (Dr.) James Murgor, MP
	The Hon. Maj. (Rtd) John Waluke Koyi, MP
	The Hon. Francis Munyua Waititu, MP
	The Hon. Joseph Wathigo Manje, MP
	The Hon. Johnson Manya Naicca, MP
	The Hon. (Dr.) Daniel Kamuren Tuitoek, MP
	The Hon. Hassan Oda Hulufo, MP
	The Hon. Nelson Koech, MP
	The Hon. Generali Nixon Kiprotich Korir, MP
	The Hon. Owen Yaa Baya, MP
	The Hon. Paul Odalo Abuor, MP
	The Hon. Silvanus Osoro, MP
	The Hon. Michael Thoya Kingi, MP
	The Hon. Jared Okelo, MP
	The Hon. Joshua Mbithi Mwalyo, MP
	The Hon. Charles Ngusya Nguna, MP

1.3 COMMITTEE SECRETARIAT

1.	Ms. Rose M. Wanjohi	-	First Clerk Assistant/Lead Clerk
2.	Mr. Abdirahman G. Hassan	-	Third Clerk Assistant
3.	Mr. Joseph Okongo	-	Media Relations Officer I
4.	Ms. Doreen Karani	-	Legal Counsel II
5.	Mr. Eugene Apaa	-	Research Officer III
6.	Mr. James Muguna	-	Research Officer III
7.	Mr. Moses Kariuki	-	Serjeant-at-arms

2. PART 2

2.0 THE REPORT ON ALLEGATIONS OF SEXUAL ASSAULT, BREAKDOWN OF EQUIPMENT, SURGICAL MIX-UP AND GENERAL OPERATIONS OF THE KENYATTA NATIONAL HOSPITAL

2.1 BACKGROUND

The Report on the Departmental Committee on Health on the allegations of sexual assault, break-down of equipment, surgical mix-up and general operations of the Kenyatta National Hospital (**Appendix 1**) was adopted by the House on 29th March, 2018. Standing Order 201 requires that within sixty days of a resolution of the House or adoption of a report of a select committee, the relevant Cabinet Secretary under whose portfolio the implementation of the resolution falls provides a report to the relevant committee of the House in accordance with Article 153(4)(b) of the Constitution. The Committee therefore invited the Cabinet Secretary Ministry of Health to appraise it on the implementation status of the recommendations of the Report by the Departmental Committee on Health.

The Departmental Committee on Health embarked on its oversight role at KNH due to a story that appeared on the mainstream print media on 15th January, 2018, painting a grim picture of the status of the country's largest public referral facility. It was alleged that various critical clinical equipment at the hospital had broken down hence stalling service delivery at the facility.

Through a viral social media post, it was alleged that the security of the new mothers with babies in the nursery was wanting and that a mother who had twins through caesarean section was nearly raped at 0300 hours, while on her way to breastfeed her baby. The posts elicited widespread reactions in the country.

In another demonstration of the general insecurity situation at the hospital, a couple lost one of their two-week-old twins in the Hospital on Sunday 18th February, 2018. Luckily, the baby was later found in Kawangware on 20th February, 2018 after a tip-off from the public.

The Departmental Committee on Health's attention was further drawn to media reports on the unintended surgical intervention that had happened in Kenyatta National Hospital. The Committee learnt that, on 19th February, 2018, at around 10.50 p.m. the wrong patient was inadvertently taken to the trauma theatre to undergo a craniotomy operation. The mistake was realized on the morning of 20th February, 2018 at around 6.30 am, when the primary nurse reported on duty and realized that the wrong patient had been sent to theatre.

Departmental Committee on Health recommendations

The Departmental Committee on Health made the following considered recommendations that would streamline operations at the Kenyatta National Hospital: -

1. **Management at the hospital.** In recognition of the Board's failure to carry out its functions in the national interest, the appointing authority in accordance with Section 7(3) of the State Corporations Act, Cap 446, constitutes a new Board. The new board appraises the top level management with a view to placing the right personnel with

the right qualifications in these positions. The hospital should employ proper patient support services and customer service. Alongside this, KNH should device proper communication and information systems.

2. **Alleged sexual harassment.** The Directorate of Criminal Investigations (DCI) should expeditiously complete its investigations and submit its report to the National Assembly within 14 days of adoption of this report by the House. Also to be submitted within the stipulated time is its report on the patient who was stabbed and bludgeoned to death at the hospital a few years back.
3. **General security arrangements at the hospital.** The hospital should engage an expert in security management and review the security arrangements within the hospital.

   The Inspector General of Police should take charge of security in the compound hosting the hospital and other public institutions within the precincts.

   The hospital should strictly enforce a fixed number of visitors per patient and adhere to visiting hours. This should be done with an automated patient and visitor information management system.

   All sections of the hospital should be properly lighted, and all crucial areas covered by CCTV surveillance.

   The hospital should as a matter of urgency engage with the National Youth Service to provide additional security within the hospital to augment existing security measures at the facility.

4. **Medical equipment at the hospital.** The hospital, the Ministry and the National Treasury should undertake a comprehensive costing of all the medical equipment that the hospital requires to guide resource allocation for purchase of the medical equipment which the institution is lacking.
5. **Surgical mix-up and professional misconduct.** The government through the Ministry should consider appropriate remedial action on the two patients. The hospital should take full responsibility for the full recovery of the two patients. Further reviews should be conducted on the patients with the possibility of a second opinion explored.

   The recommendations of the report by the Kenya Medical Practitioners & Dentist Board (KMPDB) on this matter be expeditiously implemented including but not limited to; the Nursing Council of Kenya should immediately review the conduct and practice of nurses involved in the case; the Clinical Officers Council of Kenya should immediately review the conduct and practice of clinical officers involved in the case.

   All medical regulatory bodies including the KMPDB, Nursing Council of Kenya, Clinical Officers Council of Kenya and the Pharmacy and Poisons Board should

immediately review their Standard Operating Procedures and align them to emergent good practices in the world.

Regulatory bodies should meet punitive measures on any health personnel reported and proved to have mishandled any patient in this and any other cases.

6. **Referral and health systems in general.** The hospital should strictly enforce the referral strategy and ensure proper referral documentation on admission.
   The hospital should digitize its systems to ensure adherence to standards and avoid lapses and minimize human error.

   The Ministry of Health in conjunction with county governments should spearhead efforts to improve service delivery by lower-level hospitals run by county governments. This will reduce the influx of patients to referral hospitals.

   The Ministry of Health should expeditiously roll out full operationalization of the Health Act 2017, which has solutions to many of the problems plaguing the health sector. Further, with almost a quarter of patients admitted in KNH being trauma patients as a result of road accidents, there is a need for the country to consciously develop road safety guidelines with a view of enhancing safety in our public transportation system.
7. **Financials and Human Resource.** The Government should adequately support KNH in terms of resource allocation considering the critical role the referral facility plays in the provision of referral and curative services in the country.

   The Kenyatta National Hospital and all the referral facilities in the country should invest and put in place robust financial monitoring systems to ensure that fees collected in the course of offering various services are well captured and accounted for. The hospital should strengthen existing partnerships and create new linkages with development partners to support the institution. This will supplement the resources allocated to KNH by the government to support delivery of service to the public.

   The Ministry of Health should commission an audit of all pending bills accrued at KNH as well as develop a clear roadmap on settling the genuine pending bills to improve on service delivery at the Institution.

   Further, the KNH and the Ministry of Health should pro-actively develop their budget and cash flow plans in the course of the financial year to ensure that resources are released on time to ensure full implementation of their budgetary allocations.

   The KNH, the Ministry of Health and the National Treasury should immediately recruit doctors, nurses, clinical officers, pharmacists/pharmaceutical technologists, paramedics, billing clerks and other medical and non-medical staff to address the shortfall witnessed at the hospital.

The hospital should avail enough non-medical supplies including linen, uniforms and proper visible staff name tags.

The Ministry of Health should devise a way of ring-fencing health funds reimbursed to counties by NHIF to be strictly used for health purposes.

The hospital in collaboration with the Ministry of Health should develop policy guidelines on the handling of medical bills waivers for indigent patients to cushion the Institution against revenue leakages which arise from such waivers.

The Committee will engage the hospital and ministry in policy discussions on the engagement of registrars, and in general the arrangement between the hospital and University of Nairobi (UoN).

Further, the Committee will hold policy discussions with the Ministry, Treasury and other stakeholders on policy discussions to fully implement Universal Health Coverage.

2.2 SUBMISSIONS BY THE CABINET SECRETARY FOR HEALTH

The Cabinet Secretary Ministry of Health, Sicily Kariuki (Mrs), accompanied by Dr. Thomas Mutie, the Acting Chief Executive Officer of Kenyatta National Hospital (KNH) and other officers from the Ministry appeared before the Committee on Thursday 21st June, 2018 and informed that the Ministry had taken the actions outlined below to ensure implementation of the Report by the Departmental Committee on Health on the alleged sexual assault, breakdown of equipment, surgical mix-up and general operations of KNH.

1. **General security arrangements at the hospital**
   Implementation Status:

The Hospital engaged the previously known as National Security Intelligence (NSIS) in 2011, the National Counterterrorism Centre in 2015 and National Intelligence Service (NIS) in 2016 who conducted security surveys. Their recommendations have informed the Hospital's Security and Safety Strategy 2017-2022. The Hospital has also engaged Lavington Security Ltd effective from 1st April, 2018 to boost security presence in the Hospital. (**Appendix 2**) One hundred and twenty-two (122) Lavington Guards have been deployed to compliment one hundred and fifty- three (153) Kenyatta National Hospital guards giving a total of two hundred and seventy-five (275) guards.

The Hospital has initiated restrictions of two (2) visitors per patient at a time with the intention of shortly enforcing it through the hospital. The hospital is also enforcing adherence to visiting hours.

The recommendation for proper lighting to be effected in all crucial areas within the hospital and CCTV surveillance has been implemented.

The Management engaged the services of the National Youth Service (NYS) for 2 months after which they were replaced by a private security firm to boost internal security.

2. **Medical equipment at the hospital**

   Implementation Status:

   A report on the Plant and Equipment Replacement plan for the period 2017-2022 was shared with the Ministry of Health. For effective implementation of the plan, a total of Kshs 5.9 billion will be required as follows:-

   i. Kshs 2.3 billion to clear current obsolete equipment;
   ii. Kshs 1.7 billion to replace the equipment as they fall due; and
   iii. Kshs 1.9 billion for improvement of infrastructure.

   Although the hospital has prioritized key capital equipment, the magnitude of such expenditure is beyond the hospital capacity and requires additional funding and proper facilitation for resources.

3. **Surgical mix-up and professional misconduct**

   Implementation Status:

   The two patients, Messrs John Nderitu and Samuel Kimani Wachira are attending clinical reviews in the hospital. The Medical Practitioners and Dentist Board Ruling of 10th April, 2018 ordered the hospital to enter into mediation with patient Samuel Kimani Wachira with a view of compensation within sixty (60) days. KNH constituted a Mediation Committee to engage with the patient's family; the process is ongoing and expected to be concluded within thirty (30) days. (**Appendix 3**)

4. **Referral and health systems in general**

   Implementation Status:

   The Hospital is ensuring strict enforcement of the referral system as provided in the Kenya Health Sector referral strategy and is a work in progress. To implement the referral strategy, recommendations of the Ministry of Health Taskforce established to decongest the hospital, once approved.

   The Hospital sourced through open tender for a consultant for Business Process Re-engineering (BPR) to review the Hospital process and current bottlenecks so as to inform the automation needs of the entire Hospital and guide the hospital through the automation process. A contract was signed with the successful bidder, Blue-sky Consultant Limited in December, 2017 for the consultancy services for the BPR. The consultant reviewed all KNH business processes that led to the documentation and validation of KNH processes.

   An integrated Health Management Information System and Enterprise Resource Planning technical specifications were developed and the Hospital Management proceeded to advertise an international open tender for supply, delivery, installation, testing, commissioning and support of the integrated Health Management Information System which was to close on Tuesday 26th June, 2018. However, the tender was cancelled on Tuesday 18th June, 2018 after the hospital received advice from the Ministry

of Health that the Hospital ought to liaise with the Ministry for guidance and compliance with Government directives. The Committee is yet to be appraised if tendering has commenced with advice from the Ministry.

The Hospital has strong partnerships with various development partners including but not limited to the Governments of Israel, Australia, USA, Germany, the Netherlands among others.

5. **Financials and Human Resource**
   Implementation Status:
   The Ministry of Health and KNH are ensuring that proposed annual budgets for the Hospital are released on time.

   The Hospital has submitted a Report on Human Resource gaps to the Ministry of Health and requires Kshs 2.6 billion to fund the gap.

   The challenges in terms of non-medical supplies are addressed in the Hospital's Annual Procurement Plan.

   KNH has had a Credit Policy in place since 2012. The Credit Policy has been reviewed and is awaiting Board approval for implementation.

   KNH formally communicated to the University of Nairobi (UoN) on the numbers of medical students the hospital is able to accommodate. Review of the Memorandum of Understanding between KNH and UoN, College of Health Sciences on the engagement of registrars, among others is on-going.

2.3 COMMITTEE OBSERVATIONS ON THE IMPLEMENTATION STATUS

The Committee after receiving oral and written submissions from the Cabinet Secretary observed that:-

1. There are plans to automate the hospital and the institution has engaged a consultancy firm. The consultancy firm has handed in its report and the hospital has advertised for automation of some of the hospital services. The process of automation will be done in phases; the first phase will be completed by 1st August, 2018 while the 2nd phase will be completed by December, 2018.
2. The automation should not be solely done by the hospital but instead be coordinated with the Ministry of Information, Communication and Technology.
3. Due diligence has been carried out in the acquisition of a security firm to enhance security and the Hospital followed the procurement process before settling on Lavington Security Limited. The procurement was done by way of open tender and Lavington Security Limited won the contract as it was the lowest bidder.
4. The KNH Board is not properly constituted and there is a need for wide consultation to ensure that the composition of the board reflects regional balance. The Chairperson of the Board was appointed and his name recently gazetted while the other Board Members were to be appointed and their names published in the Kenya Gazette in the weeks following the meeting with the Cabinet Secretary.
5. Disciplinary action had been commenced against the officers due to the culmination of other issues and a decision was arrived at with the advice of the Board. The registrars had been cleared of wrongdoing and returned to work while the suspended nurses were undergoing clearance process to enable them return to work, if cleared.
6. The Report was adopted and forwarded to the Ministry of Health for implementation at the time when the preparation of budget was coming to a close and the budget ceilings had been set. This would pose a challenge in implementation of the resolutions that required financial resources.

2.4 COMMITTEE RECOMMENDATIONS

The Committee recommends that the Ministry of Health continues following up the management of the Kenyatta National Hospital on implementation of the recommendations even as it awaits the Board of the Hospital to be fully constituted and thereafter advice on the implementation status.

There is need to ensure that the disciplinary action against officers is properly undertaken, due diligence carried out and the mandated institutions afforded an opportunity to finalize the process.

3. PART 3

3.0 MOTION ON ESTABLISHMENT OF A NATIONAL HEALTH REFERRAL HOSPITAL IN MOMBASA COUNTY

3.1 BACKGROUND

The National Assembly deliberated and adopted the resolution on establishment of a National Health Referral Hospital in Mombasa County on 14th March, 2018 with a view to having a facility that caters for sophisticated diagnostic, therapeutic and rehabilitative health care needs in the region requiring more complex technology and highly skilled personnel as well as one to support training of health workers at both pre-service and in-service levels.

The Constitution of Kenya guarantees the right to the highest attainable standard of Health, including the right to health care services such as reproductive health care. The Constitution further states that no person should be denied emergency medical treatment. The right to the highest attainable standard of health in a hierarchical health system can be possible only through an effective health referral system.

The Fourth Schedule to the Constitution (on the distribution of functions between the National and County Governments) assigns the provision of health services in Counties to County Governments whereas the management of capacity building & technical assistance to the Counties, National referral health facilities, health policy development and disaster management to the National Government.

The health system in Kenya is organized around six levels of care based on the scope and complexity of services offered, which are:-

- The first level comprises community units that are a collection of households staffed by volunteer community health workers. Activities at the community unit level focus mainly on promotive health through health education, treatment of minor ailments and identification of cases for referral to health facilities.
- Levels 2 (dispensaries) and 3 (health centres) offer primary health care services. These levels of care form the interface between the community and the higher level facilities. These facilities offer basic outpatient care, minor surgical services, basic laboratory services, maternity care and limited inpatient facilities. They also coordinate the community units under their jurisdiction.
- Levels 4 and 5, the secondary referral facilities, form the county referral facilities. They offer a broad spectrum of curative services and some are also health training centres.
- Level 6 constitutes the tertiary referral facilities that offer specialized care and specialized training to health workers. The National Government manages these facilities, but they are semi-autonomous organizations. For instance, Kenyatta National Hospital and Moi Teaching and Referral Hospital in Eldoret.

The Referral chain

The referral system links up the different levels of care based on the expected services being provided through the system. A referral system is a mechanism to enable comprehensive management of clients' health needs through resources beyond those available where they access care.

The organization of service delivery into six levels of care is intended to rationalize the delivery of health services within the health system for efficient use of existing resources. This categorization also means that a client's direct access to health service delivery may not be able to adequately manage the client's health needs.

An effective referral chain, therefore, provides the linkages needed across different levels of health system care. These linkages ensure that a client's health needs can be addressed, regardless of the level of the health system where the client physically accesses care. The full scope of referral services expected of the health services includes movement of clients, expertise, specimen and client parameters.

3.2 SUBMISSIONS BY THE CABINET SECRETARY FOR HEALTH

The Cabinet Secretary for Health, Sicily Kariuki (Mrs), accompanied by officers from the Ministry appeared before the Committee on Implementation and informed it that among the key concerns in the motion are that 80% of Kenyans rely on Public Health Facilities for their health care needs yet there are currently only two (2) national referral hospitals, that is, Kenyatta National Hospital and Moi Teaching and Referral Hospital in Eldoret. There is a need for highly specialized services in the coastal region in addition to improving the quality of internship and postgraduate training. It is worth noting that the First Schedule to the Health Act, 2017 provides that there shall be a national hospital in every county.

From 2018 to 2022, the Ministry of Health plans to upgrade four regional hospitals to National referral hospitals namely Coast General Hospital, Nyeri Provincial General Hospital, Nakuru Provincial General Hospital and Kisumu Provincial General Hospital. The Ministry plans to increase the number of National referral hospitals in the Country to ten (10) in the 2019/2020 financial year.

One of the hospitals to be upgraded, Coast General Hospital, is a level 5 facility currently offering general and specialized services, training facilities for cadres of health workers who function at the primary care level, internship for all clinical staff up to medical officers and research services on health issues of county importance. When upgraded to a national referral hospital (level 6), it will provide services which include highly specialized services and sub-speciality services, research services on health issues of national importance, internship for health professionals up to postgraduate level and it may be attached to a medical school as the main teaching platform.

The Ministry proposed to assess the facilities in Mombasa in July, 2018 and thereafter upgrade it to a level 6 hospital subject to completion of the required process.

3.3 COMMITTEE OBSERVATIONS ON IMPLEMENTATION STATUS

1. The Ministry of Health plans to upgrade four regional hospitals to National referral hospitals namely: Coast General Hospital, Nyeri Provincial General Hospital, Nakuru Provincial General Hospital and Kisumu Provincial General Hospital. This is proposed to be done from 2018 to 2022. The Ministry plans to increase the number of National referral hospitals in the Country to ten (10) in the 2019/2020 financial year.
2. The Ministry proposes to assess the facilities at Coast General Hospital and thereafter upgrade it to a level 6 hospital subject to completion of the required process. The hospital is currently a level 5 facility currently offering general and specialized services, training facilities for all cadres of health workers who function at the primary care level, internship for all clinical staff up to medical officers and research services on health issues of county importance.
3. When upgraded to a national referral hospital (level 6), the hospital in Mombasa will provide highly specialized and sub specialised services, research services on health issues of national importance, internship for health professionals up to postgraduate level and perhaps be attached to a medical school as the main teaching platform.
4. The committee observed progress in the implementation of the resolution albeit at a slow pace.

3.4 COMMITTEE RECOMMENDATION

The Committee recommends that the Ministry of Health continues the implementation of the resolution with regular updates on progress made to the Committee.

4. PART 4

4.0 MOTION THAT THE GOVERNMENT DECLARES CANCER AS A NATIONAL DISASTER AND ESTABLISHMENT OF A CANCER FUND

4.1 BACKGROUND

On 18th April, 2018, the House adopted the resolution that the Government declares cancer a National disaster and establish a cancer fund to cater for cancer treatments and care.

It has been reported that in Kenya, an estimated 40,000 new cancer cases and 28,000 cancer deaths occur each year, making cancer the third leading cause of mortality and accounting for 7% of deaths annually. The Kenya Medical Research Institute (KEMRI) documents that 80% of reported cases in the country are diagnosed at an advanced stage, leaving few options for remediation. Late diagnosis combined with the lack of and uneven distribution of cancer diagnostic & treatment facilities, medical personnel and hospital equipment, highlights the importance of tackling cancer at the National level. The Cabinet Secretary informed the Committee that the Ministry of Health (MoH) is committed to reducing cancer mortality as evidenced by policies such as the National Cancer Control Strategy (2011–2016).

The Committee on Implementation invited the Cabinet Secretary Ministry of Health to appraise it on the implementation status of the resolution.

4.2 SUBMISSIONS BY THE CABINET SECRETARY FOR HEALTH

The Cabinet Secretary, Ministry of Health, Sicily Kariuki, (Mrs) and other officers from the Ministry appeared before the Committee and informed them that some of the key concerns raised in the Motion is that Cancer treatment is prohibitively expensive. Access to cancer treatment is limited in Kenya with many patients having to travel to India to seek services. There is a shortage of cancer treatment specialists to address the rising cancer burden.

Within the financial year 2017/2018, the Ministry of Health has refurbished and equipped 2 new chemotherapy sites in Nyeri and Bomet counties. These sites are due to be commissioned in July, 2018. The Ministry had already initiated the procurement of a radiotherapy machine for Moi Teaching and Referral Hospital through funding from National Hospital Insurance Fund (NHIF). The machine awaits delivery and commissioning by the International Atomic Energy Agency.

The National Treasury in the FY 2018/19 Budget had allocated Kshs. 400 million to the Ministry of Health towards priority cancer control interventions. The key interventions that have been prioritized included setting up of six (6) additional chemotherapy units in Meru, Embu, Garissa, Kakamega, Nakuru and Kisumu; procurement and distribution of essential cancer medicines to the two (2) national referral hospitals as well as the chemotherapy centers; strengthening of cancer screening services across eight (8) chemotherapy units; and

training on health care workers on safe chemotherapy handling across all cancer treatment centers.

The Ministry had also allocated Kshs 7 billion towards the purchase of Computed Tomography scanners (CT scanners) to help in cancer diagnosis. (**Appendix 4)**

A Technical Working Group has been formed in the Ministry of Health to review the existing data on cancer so as to quantify the burden of cancer in Kenya with a view to informing the development of a concept paper within two months to be forwarded to the National Disaster Preparedness Committee. Declaration of cancer as a National Disaster is a process that goes through a set of procedures that require funding.

4.3 COMMITTEE OBSERVATIONS ON THE IMPLEMENTATION STATUS

The Committee deliberated on the submissions and observed the following: -

1. The Ministry has expressed plans to pay for treatment of cancer and recognized the need for investing in chemotherapy sector.
2. Currently, there are twenty-four (24) oncologists in Kenya and four (4) are expected to graduate from South Africa while seven (7) are undergoing training at the University of Nairobi.
3. The Ministry reported that it has approved six (6) additional medical schools in the country namely; Kenyatta University, Mount Kenya University, Maseno University, Egerton University, Kenya Methodist University and plans to visit and approve Masinde Muliro University in due course in order to increase the number of schools authorised to train specialists. This is part of a move meant to encourage universities to teach oncology as there are insufficient oncologists in the country.
4. The Ministry of Health recognizes the need to sensitize people in rural areas on early detection of cancer and equip facilities at lower health care facilities e.g. dispensaries. The Ministry should take practical interventions by putting in place systems for screening cancer at initial stages as early screening helps in the management of cancer.
5. The effectiveness of the cancer centre was as a matter of concern;
6. CT Scanners at KNH and Moi Teaching and Referral Hospital are functional. Ten (10) CT scanners had been delivered into the Country and twenty-seven (27) were expected to be delivered during the first quarter of the 2018/19 Financial Year. These CT scanners will be distributed to other hospitals.
7. Trainings organized by partners are mainly based on policy already in place. There is little motivation in moving money to train in non-communicable diseases.
8. Declaration of cancer as a National Disaster is a process that goes through a set of procedures that require funding.
9. The Ministry requires funding for implementation of the resolution. The resolution was made by the House towards the end of the Financial Year 2017/18, also being the end of budget-making process for the new financial year. In this regard, no funds were budgeted or allocated to implement the resolutions.

4.4 COMMITTEE RECOMMENDATIONS

The Committee recommends that:

1. The Ministry of Health begins the process of declaring Cancer a National Disaster as it awaits funding;
2. The Ministry should look into the effectiveness of the cancer centre with a view to improving its efficiency and effectiveness;
3. In view of the concern that trainings organized by partners is mainly based on policy already in place and that there is little motivation in moving money to train in non-communicable diseases, the Ministry should take measures to align the health policy with the country's requirements on training of oncologists and the need to increase the number of specialists;
4. The Ministry requests for the required financial resources to implement the resolutions through the Departmental Committee on Health and the National Treasury;

Signed _____ **Date** 15/08/2018.

Hon. Moitalel Ole Kenta, MP
Chairperson, Committee on Implementation

The National Assembly

12th Parliament–2nd Session-2018

Committee on Implementation

AGENDA: Adoption of the following Reports: -

1. Report on implementation status of the Scrap Metal Act, 2015;
2. Report on implementation status of the Report by the Departmental Committee on Health on the allegations of sexual assault, breakdown of equipment, surgical mix-up and general operations of the Kenyatta National Hospital, the resolution on establishment of a National Health Referral Hospital in Mombasa County and the resolution to declare cancer a national disaster & establishment of a cancer fund to cater for cancer treatment and care;
3. Report on the Executive Seminar on Livestock Insurance Fund, Mombasa;
4. Report on inspection visit regarding land issues in Taita Taveta County;
5. Report on training on monitoring and evaluation of the Committee on Implementation in Mombasa;
6. Report on the 3rd Annual ICPAK Chapter Seminar, Johannesburg, South Africa;
7. Report on training on strengthening oversight using monitoring and evaluation tools at United Nations Institute on Training and Research (UNITAR), Geneva, Switzerland; and
8. The Report on submissions from stakeholders regarding implementation status of House Resolutions, Petitions, Adopted Committee Reports and Acts.

VENUE: 2nd Floor Boardroom, Protection House **DATE:** Thursday 9th August, 2018 at 10:00 a.m.

NO.	NAME	SIGNATURE
1.	The Hon. Moitalel Ole Kenta, MP - **Chairperson**	
2.	The Hon. Godfrey Osotsi, MP - **Vice Chairperson**	
3.	The Hon. Alois Musa Lentoimaga, MP	
4.	The Hon. Maj. (Rtd) John Waluke Koyi, MP	
5.	The Hon. Paul Simba Arati, MP	
6.	The Hon. (Dr.) James Kipkosgei Murgor, MP	
7.	The Hon. Onesmas Kimani Ngunjiri, MP	

8.	The Hon. Francis Munyua Waititu, MP	
9.	The Hon. Richard Onyonka, MP	
10.	The Hon. Johnson Naicca, MP	
11.	The Hon. George Theuri, MP	
12.	The Hon. Joseph Wathigo Manje, MP	
13.	The Hon. (Dr.) Daniel Kamuren Tuitoek, MP	
14.	The Hon. Hassan Oda Hulufo, MP	
15.	The Hon. Nelson Koech, MP	
16.	The Hon. Generali Nixon Korir, MP	
17.	The Hon. Owen Yaa Baya, MP	
18.	The Hon. Paul Abuor, MP	
19.	The Hon. Silvanus Osoro, MP	
20.	The Hon. Michael Thoya Kingi, MP	
21.	The Hon. Jared Okelo, MP	
22.	The Hon. Joshua Mwalyo, MP	
23.	The Hon. Charles Ngusya Nguna, MP	

MINUTES OF THE 46TH SITTING OF THE COMMITTEE ON IMPLEMENTATION HELD ON THURSDAY 9TH AUGUST, 2018, IN THE BOARDROOM ON 2ND FLOOR, PROTECTION HOUSE, PARLIAMENT BUILDINGS AT 10.00 AM.

PRESENT

1. The Hon. Moitalel Ole Kenta, MP - **Chairperson**
2. The Hon. Godfrey Osotsi, MP - **Vice Chairperson**
3. The Hon. Paul Simba Arati, MP
4. The Hon. Alois Musa Lentoimaga, MP
5. The Hon. George Theuri, MP
6. The Hon. (Dr.) James Kipkosgei Murgor, MP
7. The Hon. Maj. (Rtd) John Waluke Koyi, MP
8. The Hon. Francis Munyua Waititu, MP
9. The Hon. Joseph Wathigo Manje, MP
10. The Hon. Richard Onyonka, MP
11. The Hon. Onesmas Kimani Ngunjiri, MP
12. The Hon. Johnson Manya Naicca, MP
13. The Hon. (Dr.) Daniel Kamuren Tuitoek, MP
14. The Hon. Hassan Oda Hulufo, MP
15. The Hon. Nelson Koech, MP
16. The Hon. Silvanus Osoro, MP
17. The Hon. Generali Nixon Kiprotich Korir, MP
18. The Hon. Paul Odalo Mak'Ojuando Abuor, MP

APOLOGIES

1. The Hon. Michael Kingi, MP
2. The Hon. Jared Okelo, MP

ABSENT

1. The Hon. Charles Ngusya Nguna, MP
2. The Hon. Owen Yaa Baya, MP
3. The Hon. Joshua Mbithi Mwalyo, MP

IN-ATTENDANCE

THE NATIONAL ASSEMBLY

1. Mr. Abdirahman Gele Hassan - Clerk Assistant III
2. Mr. Moses Kariuki - Serjeant-at-arms

MIN. NO.COI/244/2018: PRELIMINARIES

The Chairperson called the meeting to order at twenty-five minutes past ten o'clock followed by a word of prayer from the Hon. (Dr.) Daniel Kamuren Tuitoek, MP. Thereafter, the agenda of the day was adopted having been proposed and seconded by the Hon. (Dr.) Daniel Kamuren Tuitoek, MP, and the Hon. Godfrey Osotsi, MP, respectively, as follows: -

1. **Meeting with the acting Managing Director, Kenya Bureau of Standards to consider implementation status of the Report by the Departmental Committee on Agriculture and Livestock on inquiry into the crisis facing the sugar industry in Kenya;**
2. **Meeting with the acting CEO, Mumias Sugar Company to consider implementation status of the Report by the Departmental Committee on Agriculture and Livestock on inquiry into the crisis facing the sugar industry in Kenya;**
3. **Consideration of a report from the sub-committee on implementation of the National Budget;**
4. **Adoption of Reports; and**
5. **Consideration of pending business.**

MIN. NO.COI/245/2018: CONFIRMATION OF MINUTES

The agenda was deferred.

MIN. NO.COI/246/2018: MEETING WITH THE ACTING MD, KEBS

The meeting did not take place since the acting Managing Director, Kenya Bureau of Standards has not appeared before the Committee as scheduled.

The Committee noted with concern that it had not received official communication from KEBS indicating that the acting Managing Director would not attend the meeting. Consequently, the Committee resolved to reschedule the said meeting to Thursday 16th August, 2018.

MIN. NO.COI/247/2018: MEETING WITH THE ACTING CEO, MUMIAS SUGAR COMPANY

The Chairperson informed the Committee that the acting CEO was not able to come with the management of Mumias Sugar Company as directed earlier. The acting CEO would write to the Committee to explain as to why he was not able to come with the management of the company.

MIN. NO.COI/248/2018: REPORT ON SUB-COMMITTEE

The sub-committee on implementation of National Budget informed the main Committee on its Terms of Reference and highlighted key issues that required implementation from the Budget and Appropriations Committee (BAC) Report on the Budget Estimates for the Financial Year 2018/2019.

The Committee was advised not to step on mandate of the BAC and Departmental Committees as it follows up on approved projects for implementation considering that departmental committees play the oversight roles.

MIN. NO.COI/249/2018: ADOPTION OF REPORTS

The Committee adopted the following Reports: -

1. The Report on Implementation status of the Scrap Metal Act, 2015;
2. The Report on Implementation status by the Departmental Committee on Health Report on the allegations of sexual assault, breakdown of equipment, surgical mix-up and general operations of the Kenyatta National Hospital, the Resolution on establishment of a national health referral hospital in Mombasa County and the Resolution to declare cancer a national disaster and establishment of a cancer fund to cater for cancer treatment and care;
3. The Report on the Executive Seminar on Livestock Insurance Fund, Mombasa;
4. The Report on inspection visit regarding land issues in Taita Taveta County.
5. The Report on training on monitoring and evaluation of the Committee on Implementation in Mombasa;
6. The Report on the 3rd Annual ICPAK Chapter Seminar, Johannesburg, South Africa;
7. The Report on training on strengthening oversight using monitoring and evaluation tools at United Nations Institute on Training and Research (UNITAR), Geneva, Switzerland; and
8. The Report on submissions from the stakeholders regarding implementation status of House Resolutions, Petitions, Adopted Committee and Acts.

MIN. NO.COI/250/2018: ANY OTHER BUSINESS

The following issues were raised: -

1. **Consideration of submissions from stakeholders**

   The Committee noted the need to include the dates responses were received from various stakeholders and categorize the submissions into resolutions/motions, adopted committee reports, petitions and legislations passed by the House.

2. **Study Visits/Proposed Training**

a) The Chairperson informed the meeting that the Committee received an invitation from the State University of New York in conjunction with the Centre for Parliamentary Studies & Training requesting for nomination of Members for training. The training is proposed to be undertaken from 14th to 23rd September, 2018 at Albany, New York.

The Committee had proposed the following seven (7) Members to undertake the training: -

i. Hon. Godfrey Osotsi, MP – Vice Chairperson/Leader of the Delegation
ii. Hon. Onesmas Kimani Ngunjiri, MP
iii. Hon. Alois Musa Lentoimaga, MP
iv. Hon. Nixon Kiprotich Korir, MP
v. Hon. John Waluke Koyi, MP
vi. Hon. (Dr.) Daniel Kamuren Tuitoek, MP
vii. Hon. Jared Okelo, MP

b) The Hon. Francis Waititu, MP, to replace the Hon. Jared Okelo, MP, for the proposed study visit to Romania.

c) The Hon. Paul Abuor, MP, to replace the Hon. Godfrey Osotsi, MP, Vice Chairperson, for the proposed study visit to Zambia.

MIN. NO.COI/251/2018: ADJOURNMENT

There being no other business, the meeting was adjourned at forty minutes past eleven o'clock.

Sign.....**Date**...16/08/2018.

(Chairperson)

MINUTES OF THE 33RD SITTING OF THE COMMITTEE ON IMPLEMENTATION HELD ON THURSDAY 21ST JUNE, 2018, IN THE BOARDROOM, 2ND FLOOR, PROTECTION HOUSE, PARLIAMENT BUILDINGS AT 11.00 AM.

PRESENT

1. The Hon. Godfrey Osotsi, MP - **Vice Chairperson**
2. The Hon. Onesmas Kimani Ngunjiri, MP
3. The Hon. Alois Lentoimaga, MP
4. The Hon. Paul Simba Arati, MP
5. The Hon. Francis Munyua Waititu, MP
6. The Hon. (Dr.) Daniel Kamuren Tuitoek, MP
7. The Hon. Michael Kingi, MP
8. The Hon. Charles Ngusya Nguna, MP
9. The Hon. Owen Yaa Baya, MP
10. The Hon. Nelson Koech, MP
11. The Hon. Joshua Mbithi Mwalyo, MP

APOLOGIES

1. The Hon. Moitalel Ole Kenta, MP - **Chairperson**
2. The Hon. (Dr.) James Kipkosgei Murgor, MP
3. The Hon. Joseph Wathigo Manje, MP
4. The Hon. Richard Onyonka, MP
5. The Hon. George Theuri, MP
6. The Hon. Maj. (Rtd) John Waluke Koyi, MP
7. The Hon. Johnson Manya Naicca, MP
8. The Hon. Hassan Oda Hulufo, MP
9. The Hon. Paul Odalo Mak'Ojuando Abuor, MP
10. The Hon. Generali Nixon Kiprotich Korir, MP
11. The Hon. Jared Okelo, MP
12. The Hon. Silvanus Osoro, MP

IN-ATTENDANCE

NATIONAL ASSEMBLY

1. Mr. Abdirahman Gele Hassan - Clerk Assistant III

2. Mr. Joseph Okong'o - Media Relations Officer 1
3. Mr. Eugene Apaa - Research Officer III
4. Mr. Moses Kariuki - Serjeant-at-arms
5. Ms. Farida Ngasura - Audio Officer

MINISTRY OF HEALTH OFFICIALS

1. Ms. Sicily K. Kariuki, EGH – Cabinet Secretary, Ministry of Health
2. Dr. Thomas Mutie – Acting Chief Executive Officer, Kenyatta National Hospital
3. Dr. Makau Matheka – Senior Deputy Secretary, Ministry of Health
4. Mr. Ibrahim M. Abdi – Under Secretary, Ministry of Health
5. Mr. Peter Odundo – SCFO
6. Mr. Daniel M. Yumbya – Chief Finance Officer,
7. Mr. Alfred Karagu – ADMS
8. Ms. Carrylyn Ochiango – DCOS, H
9. Mr. Edna Tallam Kimaiyo – CEO, NCK
10. Mr. A. M. Kiilu

MIN. NO.COI/174/2018: PRELIMINARIES

The Vice Chairperson called the meeting to order at ten minutes past eleven o'clock followed by a word of prayer by Hon. (Dr.) Daniel Kamuren Tuitoek, MP. Self-introductions were made. The Vice Chairperson took the Members and witnesses through the mandate of the committee and agenda of the day.

MIN. NO.COI/175/2018: CONFIRMATION OF MINUTES

The agenda was deferred.

MIN. NO.COI/176/2018: MOTION ON ESTABLISHMENT OF A NATIONAL HEALTH REFERRAL HOSPITAL IN MOMBASA COUNTY

Key concerns raised during consideration of the Motion

i. 80% of Kenyans rely on Public Health Facilities for their health care needs yet there are currently only two (2) national referral hospitals – Kenyatta National Hospital and Moi Teaching and Referral Hospitals.

ii. There is need for highly specialized services in the region in addition to improving quality of internship and postgraduate training.

iii. The first schedule of the Health Act 2017 says that there shall be a national hospital in every county.

Implementation Status

In the years 2018 to 2022, the Ministry of Health plans to upgrade four regional hospitals to National Referral Hospitals namely Coast General Hospital, Nyeri Provincial General Hospital, Nakuru Provincial General Hospital and Kisumu Provincial General Hospital. The Ministry will assess the facilities in Mombasa in the month of July 2018. The Ministry plans to increase the number of National referral hospitals in the Country to ten (10) in the 2019/2020 financial year.

One of the hospitals to be upgraded, Coast General Hospital is a level 5 facility currently offering the following:

i. General and specialized services;
ii. Training facilities for cadres of health workers who function at the primary care level;
iii. Internship for all clinical staff, up to medical officers;
iv. Research services on health issues of county importance.

When upgraded to a national referral hospital (level 6), it will provide the following services:

i. Highly specialized services and sub-specialty services;
ii. Research services on health issues of national importance;
iii. Internship for health professional up to postgraduate level;
iv. May be attached to a medical school as the main teaching platform.

In conclusion, mapping for the process of upgrading the hospital is done as well as a policy decision taken by the Ministry. The Ministry will assess the Coast General Hospital in Mombasa in July 2018 and thereafter upgrade it to a level 6 hospital subject to completion of the required process, including collaboration with the County Government.

Implementation of the recommendation is ongoing and further updates will be shared with the Committee as they arise.

MIN. NO.COI/177/2018: **MOTION THAT THE GOVERNMENT DECLARES CANCER AS A NATIONAL DISASTER AND ESTABLISHMENT OF A CANCER FUND TO CATER FOR CANCER TREATMENT AND CARE**

Key concerns raised during consideration of the Motion

1. Cancer treatment is prohibitively expensive.
2. Access to cancer treatment is limited in Kenya with many patients having to travel to India to seek services.
3. There is a shortage of cancer treatment specialists to address the rising cancer burden.

Implementation status

1. Within the current financial year 2017/2018, the Ministry of Health has refurbished and equipped 2 new chemotherapy sites at Nyeri and Bomet Counties. These sites are due to be commissioned in July 2018. The Ministry has already initiated the procurement of a radiotherapy machine for Moi Teaching and Referral Hospital through funding from National Hospital Insurance Fund (NHIF). The machine awaits delivery and commissioning by the International Atomic Energy Agency.
2. The National Treasury in the FY 2018/19 Budget has allocated Kshs 400 million to the Ministry of Health towards priority cancer control interventions. The key interventions that have been prioritized include:
    i. Setting up of six (6) additional chemotherapy units in Meru, Embu, Garissa, Kakamega, Nakuru and Kisumu. Nyeri and Bomet have already been refurbished and will be ready for commissioning in July 2018;
    ii. Procurement and distribution of essential cancer medicines to the two (2) national referral hospitals as well as the chemotherapy centres;
    iii. Strengthening of cancer screening services across eight (8) chemotherapy units;
    iv. Training on health care workers on safe chemotherapy handling across all cancer treatment centres.
3. The Ministry has also allocated Kshs 7 billion towards the purchase of CT scanners to help in cancer diagnosis.

4. A Technical Working Group has been formed in the Ministry of Health to review the existing cancer data so as to quantify the burden of cancer in Kenya with a view to informing the development of a concept paper to be forwarded to the National Disaster Preparedness Committee.

Committee Observations

1. Cancer is a global problem causing 40% of death together with Diabetes and High Blood Pressure.
2. Cancer is mainly caused by lifestyle, environmental conditions and foods contaminated with aflatoxin. 40,000 cases of cancer are recorded annually in Kenya with 28,000 reported deaths from cancer.
3. Universal Health Care considers disease burden in respective to Counties. Health is a devolved function hence the need to work and collaborate with Counties. Chemotherapy machines are being placed in facilities run by County Governments, as they are the ones who will undertake service delivery while the National Government provides equipment and facilities.
4. The Ministry has expressed plans to pay for treatment of cancer and recognizes the need for investing in chemotherapy sector.
5. Currently, there are twenty four (24) oncologists in Kenya and four (4) are graduating from South Africa while seven (7) are undergoing training at the University of Nairobi.
6. The Ministry reported that it has approved six (6) additional medical schools in the country namely; Kenyatta University, Mount Kenya University, Maseno University, Egerton University, Kenya Methodist University and plans to visit and approve Masinde Muliro University in due course in order to increase the number of specialists. This is part of a move meant to encourage universities to teach Oncology, as there are insufficient oncologists in the Country.
7. There should be practical interventions and the Ministry should have a system of screening cancer at initial stages as early screening helps in management of cancer. The Committee agreed with the Cabinet Secretary (CS) that there was need to sensitize people at rural areas and equip facilities at lower health care facilities e.g. dispensaries.
8. Concerns were raised on the effectiveness of the cancer centre.
9. The CS had reported that the scanners at KNH and Moi Teaching and Referral Hospital are functional and CT scanners will be distributed to other hospitals.

10. The first ten (10) CT scanners had arrived in the Country and twenty-seven (27) were expected to be delivered in the Country during the first quarter of the 2018/19 Financial Year.
11. The trainings organized by partners are mainly based on policy in place and there is little motivation in moving money to train in non-communicable diseases.
12. Declaration of cancer as a National disaster is a process that goes through set of procedures that require funding. A Committee has been set up to carry out the process of gathering the necessary information and data which has been scheduled to take two (2) months and thereafter a report which details the impact and magnitude of cancer in the Country will be sent to the National Disaster and Preparedness Committee for further necessary action.
13. The Ministry will require additional funds to deal with cancer and other health related challenges.
14. The Motion come towards the end of the budget making process hence there was no money allocated to implement it. The Ministry requires funding for its implementation.

MIN. NO.COI/178/2018: **REPORT OF THE DEPARTMENTAL COMMITTEE ON HEALTH ON THE ALLEGED SEXUAL ASSAULT, BREAKDOWN OF EQUPMENT, SURGICAL MIX-UP AND GENERAL OPERATIONS OF KENYATTA NATIONAL HOSPITAL**

Sicily Kariuki, (Mrs.) EGH, the Cabinet Secretary for Health and Dr. Thomas Mutie, the Acting Chief Executive Officer of KNH informed the Committee that they have taken the following actions to ensure implementation of the Report:

1. The Hospital engaged NSIS in 2011, National Counterterrorism Centre in 2015 and NIS in 2016 who conducted security surveys. Their recommendations have informed the Hospital's Security and Safety Strategy 2017-2022. Hospital has engaged Lavington Security Ltd effective from 1st April 2018 to boost security presence in the Hospital. One hundred and twenty-two (122) Lavington Guards have been deployed to compliment One hundred and fifty- three (153) Kenyatta

National Hospital guards giving a total of two hundred and seventy five (275) guards.

2. The Hospital has initiated restrictions of two (2) visitors per patient at a time with the intention of shortly enforcing it through the hospital. The hospital is also enforcing adherence to visiting hours.
3. The recommendation for proper lighting to be effected in all crucial areas within the hospital and CCTV surveillance has been implemented.
4. The Management engaged the services of National Youth Service NYS for a period of 2 months after which they were replaced by a private security firm to boost internal security.
5. A Report on Plant and Equipment Replacement plan for the years 2017-2022 was shared with the Ministry of Health. For effective implementation of the plan, a total of Kshs 5.9 billion will be required as follows:
   i. Kshs 2.3 billion to clear current obsolete equipment
   ii. Kshs 1.7billion to replace the equipment as they fall due.
   iii. Kshs 1.9 billion for improvement of infrastructure.

   Although the hospital has prioritized key capital equipment, the magnitude of such expenditure is beyond the hospital capacity and requires additional funding and proper facilitation for resources.
6. The two patients, Messrs John Nderitu and Samuel Kimani Wachira are attending clinical reviews in the hospital. The Medical Practitioners and Dentist Board Ruling of 10th April 2018 ordered the hospital to enter into mediation with patient Samuel Kimani Wachira with a view of compensation within 60 days. KNH constituted a Mediation Committee to engage with the patient's family, the process is ongoing and is effected to be concluded within 30 days.
7. The Hospital is ensuring strict enforcement of the referral system as provided in the Kenya Health Sector referral strategy and is a work in progress. To implement the referral strategy, recommendations of Ministry of Health Taskforce established to decongest the hospital, once approved.
8. The Hospital sourced through open tender for a Consultant for Business Process Re-engineering (BPR) to review the Hospital process and current bottlenecks so as to inform the automation needs of the entire Hospital and guide the hospital through the automation process. A contract was signed with the successful bidder, Blue-sky Consultant Limited in December 2017 for the consultancy services for

the BPR. The consultant reviewed all KNH business processes that led to the documentation and validation of KNH processes. An integrated Health Management Information System and ERP technical specifications were developed and the Hospital Management proceeded to advertise an international open tender for supply, delivery, installation, testing, commissioning and support of the integrated Health Management Information System which was to close on Tuesday 26th June 2018. The Tender was cancelled on Tuesday 18th June 2018 after the hospital received advice from the Ministry of Health that the Hospital ought to liaise with the Ministry for guidance and compliance with Government directives.

9. The Hospital has strong partnership with various development partners including but not limited to the Governments of Israel, Australia, Australia, USA, Germany, the Netherlands among others.
10. The Ministry of Health and KNH are ensuring that proposed annual budgets for the Hospital are released on time.
11. The Hospital has submitted a Report on Human Resource gaps to the Ministry of Health. The Hospital requires Kshs 2.6 billion to fund the gap.
12. The challenges in terms of non-medical supplies are addressed in the Hospital's Annual Procurement Plan.
13. KNH has had a Credit Policy in place since 2012. The Credit Policy has been reviewed and is awaiting Board approval for implementation.
14. KNH formally communicated to UoN on the numbers of medical students the hospital is able to accommodate. Review on the Memorandum of Understanding between KNH and UoN, College of Health Sciences on engagement of registrars, among others is on-going.

Members Observations

1. The Kenya Medical Practitioners and Dentists Board registered 11,000 doctors, 7,000 practitioners and 2,800 specialists.
2. International best practice requires Governments to direct a minimum of 15% of GDP towards health sector but Kenya is currently at 7% that is below the recommended threshold.
3. 30% of the Ministry's Budget is from Appropriations in Aid (A-in-A). The A-in-A is charged on patients and used for inputs like buying medicines and

offering services. In FY 2017/18, the Ministry collected Kshs. 5.2 billion as A-in-A while the expected amount in the FY 2018/19 is Kshs. 5.5 billion.

4. There are also plans to automate the hospital and the institution has engaged a consultancy. The consultancy firm has handed in their report and the hospital has advertised for automation of the hospital.
5. The process of automation is in phases; the first phase will be completed by 1st August, 2018 while the 2nd phase will be completed by December, 2018.
6. The automation is not to be a stand-alone system. It has to be coordinated with the Ministry of Information, Communication & Technology so that it can be inter-operatable.
7. There are various measures the Ministry has put in place to enhance security e.g. enforce appearances of visiting hours and reduce the number of visitors per patient to two.
8. The Hospital has done a security survey and the institution engaged a security company in April 2018. The hospital has also increased its security personnel and 275 security personnel are serving the hospital.
9. Due diligence has been carried out and the Hospital followed the normal procurement process before settling on Lavington Security firm. It was an open tender and Lavington Security Firm won the tender as they were the lowest bidder with the best price.
10. The KNH Board is not properly constituted and there is need to enhance consultation and ensure regional balances. The Board has chair who was recently gazetted and the other board Members will be gazetted in the next 2 weeks.
11. Disciplinary of officers was due to culmination of other issues and decision was reached with advice of Board. The registrars were cleared to return to work. The suspended nurses are undergoing clearance process to allow them back to work. There is need to ensure the process is properly undertaken, therefore suspended officers have been requested to be patient until the mandated institutions finalise the process.

Conclusion

1. The Ministry will act on the recommendations of the report once the board is fully constituted and advice on way forward.

2. The Report was adopted and forwarded to the Ministry for implementation towards the end of the preparation of budget when budget ceilings were closed.

MIN. NO.COI/179/2018: ANY OTHER BUSINESS

1. **Tests on impounded sugar:** The Public Health Directorate of the Ministry of Health has taken samples from impounded sugar to Government chemists to examine the level of mercury and other toxins. However, other arms of Government have taken up the issue of mercury even though Kenya Bureau of Standards (KEBS) is mandated to consider and check on standards.
2. **Specialized doctors**: The Country's hospitals especially at County level lacked specialized doctors which necessitated the need for doctors with the requisite skills from outside the Country. A Memorandum of Understanding was entered with Counties that were willing to employ specialized doctors in the County level Hospitals. The National Government entered into an agreement with County Governments to bring in the Cuban doctors to improve service delivery. The Governors also agreed on how they will take in and share the specialized doctors. The Cuban doctors who were mainly family specialists were employed to assist in early screening and detection of cancer.
3. **Mobile Clinics:** The mobile clinics are still at Mritiri in Mombasa and Counties have the option of getting the clinics themselves. However, mobile clinics in transit from Mombasa were impounded by EACC for investigation. The cost of transportation is also a challenge.
4. **CT Scanners:** The CS didn't have information on the prices of CT scanners, ownership of companies that provided the scanners and machines.

MIN. NO.COI/180/2018: ADJOURNMENT

The meeting was adjourned at ten minutes past one o'clock. The next meeting will be on notice.

Sign.....**Date**.....10.07.2018.

(Chairperson)

MINUTES OF THE 32ND SITTING OF THE COMMITTEE ON IMPLEMENTATION HELD ON THURSDAY 19TH JUNE, 2018, IN THE BOARDROOM, 2ND FLOOR, PROTECTION HOUSE, PARLIAMENT BUILDINGS AT 12.30 PM.

PRESENT

1. The Hon. Godfrey Osotsi, MP **- Vice Chairperson**
2. The Hon. Onesmas Kimani Ngunjiri, MP
3. The Hon. Francis Munyua Waititu, MP
4. The Hon. (Dr.) Daniel Kamuren Tuitoek, MP
5. The Hon. Michael Thoya Kingi, MP
6. The Hon. Paul Odalo Mak'Ojuando Abuor, MP

APOLOGIES

1. The Hon. Moitalel Ole Kenta, MP **- Chairperson**
2. The Hon. (Dr.) James Kipkosgei Murgor, MP
3. The Hon. Hassan Oda Hulufo, MP
4. The Hon. Joseph Wathigo Manje, MP
5. The Hon. Joshua Mbithi Mwalyo, MP
6. The Hon. Owen Yaa Baya, MP
7. The Hon. Richard Onyonka, MP
8. The Hon. George Theuri, MP
9. The Hon. Alois Musa Lentoimaga, MP
10. The Hon. Paul Simba Arati, MP
11. The Hon. Maj. (Rtd) John Waluke Koyi, MP
12. The Hon. Johnson Manya Naicca, MP
13. The Hon. Generali Nixon Kiprotich Korir, MP
14. The Hon. Nelson Koech, MP
15. The Hon. Jared Okelo, MP
16. The Hon. Silvanus Osoro, MP
17. The Hon. Charles Ngusya Nguna, MP

IN-ATTENDANCE

NATIONAL ASSEMBLY

1.	Mr. Abdirahman Gele Hassan	-	Clerk Assistant III
2.	Mr. Joseph Okong'o	-	Media Relations Officer 1
3.	Mr. Eugene Apaa	-	Research Officer III
4.	Mr. James Muguna	-	Research Officer III
5.	Mr. Moses Kariuki	-	Serjeant-at-arms

MIN. NO.COI/168/2018: PRELIMINARIES

The Vice Chairperson called the meeting to order at forty-five minutes past twelve o'clock followed by a word of prayer.

MIN. NO.COI/169/2018: CONFIRMATION OF MINUTES

The Minutes of the 31st Sitting held on Thursday 14th June, 2018 was confirmed as a true record of the proceedings having been proposed and seconded by Hon. (Dr.) Daniel Kamuren Tuitoek, MP and Hon. Francis Waititu, MP respectively.

MIN. NO.COI/170/2018: MATTERS ARISING

There were no matters that arose.

MIN. NO.COI/171/2018: CONSIDERATION OF PENDING BUSINESS

1. The Researcher took the committee through the Report of the Departmental Committee on Health on the Alleged Sexual Assault, Breakdown of Equipment, Surgical Mix-Up and General Operations of Kenyatta National Hospital.
2. The Vice Chairperson informed the Members that the Cabinet Secretary, Ministry of Health had been invited to appear before the Committee on Thursday 21st June, 2018 to report on implementation status on the KNH report and Motions on establishment of Cancer fund and declaring of Cancer a National disaster and establishment of a referral hospital in Mombasa county.
3. Members observed that KNH hospital has been very helpful in treating patients.

4. Members were concerned that Kenyans were dying of cancer because of lack of good and adequate equipment's to assist in early detection and treatment.
5. The Secretariat to prepare brief and questions on the Report on crisis facing the sugar industry in Kenya, in preparation for the meeting with the stakeholders.
6. Members were informed that the Sub-Committee on Mombasa Cement will meet before 21st June, 2018.

MIN. NO.COI/172/2018: ANY OTHER BUSINESS

1. Considering the mandate of the Committee, Members noted the need to have a permanent Audio Officer attached to it and be present in all committee meetings.
2. Members requested that notices for committee meetings be sent early enough to give members adequate time to prepare for meetings accordingly.

MIN. NO.COI/173/2018: ADJOURNMENT

The meeting was adjourned at fifteen minutes past one o'clock. The next meeting will be on notice.

Sign.....  **Date**.....10:07:2018.

(Chairperson)

MINUTES OF THE 31st SITTING OF THE COMMITTEE ON IMPLEMENTATION HELD ON THURSDAY 14TH JUNE, 2018, IN THE BOARDROOM, FOURTH FLOOR, PROTECTION HOUSE, PARLIAMENT BUILDINGS AT 12.30 PM.

PRESENT

1. The Hon. Moitalel Ole Kenta, MP - **Chairperson**
2. The Hon. Godfrey Osotsi, MP - **Vice Chairperson**
3. The Hon. (Dr.) James Kipkosgei Murgor, MP
4. The Hon. Onesmas Kimani Ngunjiri, MP
5. The Hon. Francis Munyua Waititu, MP
6. The Hon. (Dr.) Daniel Kamuren Tuitoek, MP
7. The Hon. Michael Thoya Kingi, MP
8. The Hon. Charles Ngusya Nguna, MP
9. The Hon. Hassan Oda Hulufo, MP
10. The Hon. Paul Odalo Mak'Ojuando Abuor, MP

APOLOGIES

1. The Hon. Joseph Wathigo Manje, MP
2. The Hon. Joshua Mbithi Mwalyo, MP
3. The Hon. Owen Yaa Baya, MP
4. The Hon. Richard Onyonka, MP
5. The Hon. George Theuri, MP
6. The Hon. Alois Musa Lentoimaga, MP
7. The Hon. Paul Simba Arati, MP
8. The Hon. Maj. (Rtd) John Waluke Koyi, MP
9. The Hon. Johnson Manya Naicca, MP
10. The Hon. Generali Nixon Kiprotich Korir, MP
11. The Hon. Nelson Koech, MP
12. The Hon. Jared Okelo, MP
13. The Hon. Silvanus Osoro, MP

IN-ATTENDANCE

NATIONAL ASSEMBLY

1.	Mr. Abdirahman Gele Hassan	-	Clerk Assistant III
2.	Mr. Joseph Okong'o	-	Media Relations Officer 1
3.	Ms. Doreen Karani Nkatha	–	Legal Counsel II
4.	Mr. Eugene Apaa	-	Research Officer III
5.	Mr. James Muguna	-	Research Officer III

MIN. NO.COI/162/2018: PRELIMINARIES

The Chairperson called the meeting to order at thirty-five minutes past twelve o'clock followed by a word of prayer.

The agenda of the day was adopted having been proposed and seconded by Hon. (Dr.) James Murgor, MP and Hon. Paul Abuor, MP respectively.

MIN. NO.COI/163/2018: CONFIRMATION OF MINUTES

The Minutes of the 30th Sitting held on Tuesday 12th June, 2018 was confirmed as a true record of the proceedings having been proposed and seconded by Hon. Godfrey Osotsi, MP, Vice Chairperson and Hon. (Dr.) James Murgor, MP respectively.

MIN. NO.COI/164/2018: MATTERS ARISING

Under Min.No.COI/159/2018:

a) The Committee noted with concern that the recommendations of the report on inquiry into the challenges facing sugar industries in the country have not been acted upon by the relevant stakeholders. The Committee resolved to invite the Cabinet Secretary for Agriculture & Irrigation, the Commissioner General, Kenya Revenue Authority, Kenya Sugar Directorate and Kenya Bereau of Standards for a meeting on 26th June, 2018 to deliberate on implementation status of the said report by the Departmental Committee on Agriculture and Livestock.

b) The Committee also resolved to consider the report on the alleged sexual assault, breakdown of equipment, surgical mix-up & general operations of Kenyatta National Hospital and Motions on establishment of a National

Health Referral Hospital in Mombasa County and declaration of Cancer as a National Disaster and establishment of Cancer Fund on Tuesday 19th June, 2018.

MIN. NO.COI/165/2018: CONSIDERATION OF PENDING BUSINESS

Pending Reports

The Committee resolved to consider the report on ownership of Mombasa Cement Limited land in Kilifi County on Tuesday 19th June, 2018 and thereafter invite the relevant stakeholders.

MIN. NO.COI/166/2018: ANY OTHER BUSINESS

1. The Committee resolved to invite the Cabinet Secretary for Interior and Coordination of National Government to consider implementation status of the report on inquiry into the tender for the proposed national surveillance, communication, command and control system for the National Police Service on Tuesday 10th July, 2018.
2. The Committee resolved to organize for a retreat in August preferably in Nairobi to consider submissions from stakeholders on implementation status of reports and resolutions passed by the House.
3. Members noted the need to put a concerted effort towards reports and resolutions passed by the House to fast track implementation.

MIN. NO.COI/167/2018: ADJOURNMENT

The meeting was adjourned at ten minutes past one o'clock. The next meeting will be on notice.

Sign.....  **Date**..14.06.2018.

(Chairperson)

MINUTES OF THE 29TH SITTING OF THE COMMITTEE ON IMPLEMENTATION HELD ON TUESDAY 5TH JUNE, 2018, IN THE FOURTH FLOOR BOARDROOM, PROTECTION HOUSE, PARLIAMENT BUILDINGS, AT 12.00 PM.

PRESENT

1. The Hon. Moitalel Ole Kenta, MP - **Chairperson**
2. The Hon. George Theuri, MP
3. The Hon. (Dr.) Daniel Kamuren Tuitoek, MP
4. The Hon. Joshua Mbithi Mwalyo, MP
5. The Hon. Paul Odalo Mak'Ojuando Abuor, MP
6. The Hon. Michael Thoya Kingi, MP
7. The Hon. Alois Musa Lentoimaga, MP
8. The Hon. Francis Munyua Waititu, MP
9. The Hon. (Dr.) James Kipkosgei Murgor, MP
10. The Hon. Paul Simba Arati, MP
11. The Hon. Joseph Wathigo Manje, MP
12. The Hon. Charles Ngusya Nguna, MP
13. The Hon. Generali Nixon Kiprotich Korir, MP

APOLOGIES

1. The Hon. Godfrey Osotsi, MP - **Vice Chairperson**
2. The Hon. Nelson Koech, MP
3. The Hon. Richard Onyonka, MP
4. The Hon. Onesmas Kimani Ngunjiri, MP
5. The Hon. Maj. (Rtd) John Waluke Koyi, MP
6. The Hon. Hassan Oda Hulufo, MP
7. The Hon. Johnson Manya Naicca, MP
8. The Hon. Jared Okelo, MP
9. The Hon. Silvanus Osoro, MP
10. The Hon. Owen Yaa Baya, MP

IN-ATTENDANCE

NATIONAL ASSEMBLY

1. Mr. Abdirahman Gele Hassan	-	Clerk Assistant III
2. Mr. James Muguna	-	Research Officer III
3. Mr. Joseph Okong'o	-	Media Relations Officer 1
4. Mr. Moses Kariuki	-	Serjeant-at-arms

MIN. NO.COI/151/2018: PRELIMINARIES

The Chairperson called the meeting to order at ten minutes past twelve o'clock followed by a word of prayer.

MIN. NO.COI/152/2018: CONFIRMATION OF MINUTES

The minutes of the previous meetings were confirmed as follows:-

1. The Minutes of the 17th Sitting held on Friday 6th April, 2018 at 10.00am was confirmed as a true record of the proceedings having been proposed and seconded by Hon. Charles Ngusya Nguna, MP and Hon. (Dr.) James Murgor, MP respectively.
2. The Minutes of the 18th Sitting held on Friday 6th April, 2018 at 2:00pm was confirmed as a true record of the proceedings having been proposed and seconded by Hon. (Dr.) James Murgor, MP and Hon. Joshua Mwalyo, MP respectively.
3. The Minutes of the 19th Sitting held on Saturday 7th April, 2018 at 10:00am was confirmed as a true record of the proceedings having been proposed and seconded by Hon. Paul Abuor, MP and Hon. Joshua Mwalyo, MP respectively.
4. The Minutes of the 20th Sitting held on Saturday 7th April, 2018 at 1:00pm was confirmed as a true record of the proceedings having been proposed and seconded by Hon. (Dr.) James Murgor, MP and Hon. Charles Nguna, MP respectively.
5. The Minutes of the 21st Sitting held on Thursday 12th April, 2018 was confirmed as a true record of the proceedings having been proposed and

seconded by Hon. (Dr.) Daniel Kamuren Tuitoek, MP and Hon. Joshua Mwalyo, MP respectively.

6. The Minutes of the 22nd Sitting held on Tuesday 17th April, 2018 at 9:00am was confirmed as a true record of the proceedings having been proposed and seconded by Hon. Charles Nguna, MP and Hon. Alois Musa Lentoimaga, MP respectively.
7. The Minutes of the 23rd Sitting held on Tuesday 17th April, 2018 at 2:30pm was confirmed as a true record of the proceedings having been proposed and seconded by Hon. Joshua Mwalyo, MP and Hon. Paul Abuor, MP respectively.
8. The Minutes of the 24th Sitting held on Wednesday 18th April, 2018 was confirmed as a true record of the proceedings having been proposed and seconded by Hon. Alois Musa Lentoimaga, MP and Hon. Charles Nguna, MP respectively.
9. The Minutes of the 25th Sitting held on Friday 27th April, 2018 at 9:00am was confirmed as a true record of the proceedings having been proposed and seconded by Hon. (Dr.) James Murgor, MP and Hon. Joshua Mwalyo, MP respectively.
10. The Minutes of the 26th Sitting held on Friday 27th April, 2018 at 2:30pm was confirmed as a true record of the proceedings having been proposed and seconded by Hon. (Dr.) Daniel Kamuren Tuitoek, MP and Hon. (Dr.) James Murgor MP respectively.
11. The Minutes of the 27th Sitting held on Saturday 28th April, 2018 was confirmed as a true record of the proceedings having been proposed and seconded by Hon. Joshua Mwalyo, MP and Hon. (Dr.) James Murgor, MP respectively.
12. The Minutes of the 28th Sitting held on Thursday 17th May, 2018 was confirmed as a true record of the proceedings having been proposed and seconded by Hon. Dr. Daniel Kamuren Tuitoek, MP and Hon. Joshua Mwalyo, MP respectively.

MIN. NO.COI/153/2018: MATTERS ARISING

1) Under Min. No .COI/92/2018: Consideration of the Report on Land issues in Taita Taveta County

The Committee resolved to invite the Cabinet Secretaries for Lands and Physical Planning, Interior and Coordination of National Government and the Ministry of Transport, Infrastructure, Housing & Urban Development for a meeting to deliberate on the said report on Thursday 5th July, 2018.

The Committee will thereafter prepare its report in preparation for tabling before the House.

2) Under Min. No. COI/146/2018: Consideration of the Report on ownership of Mombasa Cement Limted land

The sub-committee was urged to report to the committee within the next two weeks.

3) Under Min. No. COI/147/2018: Consideration of Reports on challenges facing sugar industries in the country.

The Secretariat was tasked to prepare letters inviting the Cabinet Secretary for Agriculture and Irrigation, the CS National Treasury, Kenya Revenue Authority, the Kenya Bereau of Standards, Kenya Sugar Board and Mumias Sugar Company for a meeting to give the stakeholders ample time to prepare for the meeting accordingly.

MIN. NO.COI/154/2018: CONSIDERATION OF PENDING BUSINESS

1) **Consideration of Special Report on Procurement and Financing of NSSF Tassia II Infrastructure Development Project**

Hon. Paul Simba Arati, MP was tasked to spearhead the process of consideration of the said report.

2) **Implementation of the Report on the Alleged Sexual Assault, Breakdown of Equipment, Surgical Mix-up and General Operations of Kenyatta National Hospital and Motion on Establishment of a National Health Referral Hospital in Mombasa County**

Hon. (Dr.) James Kipkosgei Murgor, MP was tasked to spearhead the process of consideration of the said report.

3) **Consideration of Resolution on Review of Terms and Conditions of KPR in Arid and Semi-Arid Areas**

The Committee resolved to invite the Cabinet Secretary for Interior and Coordination Of National Government for a meeting to deliberate on the implementation status on Resolution on review of terms and conditions of KPR in arid and semi-arid areas on Tuesday 10th July, 2018.

MIN. NO.COI/155/2018: ADJOURNMENT

The meeting was adjourned at twenty minutes past one o'clock. The next meeting will be on notice.

Sign..... **Date**... 12.06.2018.

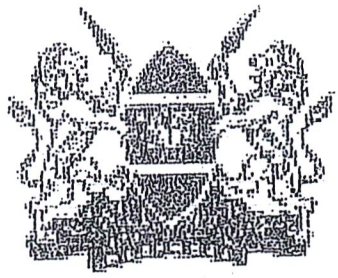
(Chairperson)

ANNEX 1

NA

20/3/18

REPUBLIC OF KENYA



THE NATIONAL ASSEMBLY

****

TWELFTH PARLIAMENT

SECOND SESSION

REPORT OF THE DEPARTMENTAL COMMITTEE ON HEALTH ON THE ALLEGED SEXUAL ASSAULT, BREAKDOWN OF EQUIPMENT, SURGICAL MIX-UP AND GENERAL OPERATIONS OF KENYATTA NATIONAL HOSPITAL

DIRECTORATE OF COMMITTEE SERVICES,
THE NATIONAL ASSEMBLY,
PARLIAMENT BUILDINGS,
NAIROBI.

MARCH, 2018

Table of Contents

ABBREVIATIONS

BTU	Blood Transfusion Unit
CEO	Chief Executive Officer
CS	Cabinet Secretary
DCI	Directorate of Criminal Investigations
GP	General Practitioner
KMPDB	Kenya Medical Practitioners & Dentists Board
KNH	Kenyatta National Hospital
MRI	Magnetic Resonance Imaging
MTRH	Moi Teaching and Referral Hospital, Eldoret
NHS	National Health Service
PHC	Primary Health Care
SOP	Standard Operating Procedure
UHC	Universal Health Coverage
UoN	University of Nairobi
WHO	World Health Organization

PREFACE

Mr. Speaker Sir,

The Departmental Committee on Health is established pursuant to the provisions of Standing Order No. 216(5) 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 is to;

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; and*
g) *Make reports and recommendations to the House as often as possible, including recommendation of proposed legislation.*

The Departmental Committee is mandated to cover the functions of the Ministry of Health alongside seven Semi-autonomous Government Agencies (SAGAs) namely; Kenyatta National Hospital; Moi Teaching and Referral Hospital; Kenya Medical Training College; Kenya Medical Supplies Authority; National Hospital Insurance Fund; Kenya Medical Research institute; National Aids and Control Council.

This report is an outcome of the exercise of Standing Order No. 216 (5), on the allegations of sexual assault, breakdown of medical equipment, surgical procedure and the general operations of the Kenyatta National Hospital.

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 facilitated by the following members of the Secretariat;

1. Mr. Victor Weke - Clerk Assistant II
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. Erick Kanyi - Fiscal Analyst
6. Ms. Winnie Kiziah - Media Officer

Appreciation

Mr. Speaker Sir,

The Committee wishes to thank the Office of the Speaker of the National Assembly and the Office of the Clerk of the National Assembly for the necessary support extended to it in the execution of its mandate and in conducting this inquiry. I wish to also thank the Members of the Committee for their expert, insightful and thoughtful participation in the inquiry process and their dedication to our tight work schedule. I also thank the secretariat for its technical service, dedication, and working round the clock to produce this report in good time.

The Committee further extends its appreciation to witnesses who appeared before it to submit information, and members of the public who forwarded their written views and proposals to the Committee for consideration.

Mr. Speaker Sir,

On behalf of the Members of the Committee, and pursuant to Standing Order no. 199(6), it is my distinguished honour and privilege to present this report of the Departmental Committee on Health, on the allegations of sexual assault, breakdown of equipment, surgical mix-up and general operations of the Kenyatta National Hospital for debate and adoption by the House.

Thank You

SIGNED .....

HON. SABINA CHEGE, MP

(CHAIRPERSON)

DATE..... 20/3/18.

ADOPTION OF REPORT OF THE COMMITTEE ON HEALTH ON THE OPERATIONS OF KENYATTA NATIONAL HOSPITAL

We, the Honourable Members of the Departmental Committee on Health, do hereby affix our signatures to this report on the operations of Kenyatta National Hospital, to affirm our approval and confirm its accuracy, validity and authenticity;

1. Hon. Sabina Chege, MP .....
2. Hon. Swarup Ranjan Mishra, MP .....
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 .....

EXECUTIVE SUMMARY

This report is a result of investigation into the allegations of sexual assault, breakdown of critical medical equipment, surgical mix-up and the general operations of the Kenyatta National Hospital. The Committee had scheduled an examination of the hospital, and indeed other agencies under its purview, in its work plan adopted during its induction retreat.

Occurrences at the hospital increased the urgency with which the Committee had to act, to address the issues, which were of great public interest affecting the biggest referral hospital in the country.

The inquiry covered the entire spectrum of health service provision at the hospital, from leadership and management to health personnel and auxiliary services like security. The Committee made a fact finding visit to the hospital to get first-hand experience and put matters into perspective. The Committee interviewed the hospital's board and management, medical personnel involved in specific cases, and the Cabinet Secretary.

This process also included an analysis into financial allocations to the hospital, the referral practice and human resource contingent deployed at the hospital.

The Committee did not find evidence to substantiate the allegations of sexual assault.
The Committee observed a breakdown of systems at the hospital, including non-adherence to standard operating procedures, obsolete equipment, overcrowding, inadequate medical personnel, failing and/or collapsed systems and overall leadership shortcomings at the hospital, all contributing towards the botched surgical intervention.
The Committee also observed underfunding by Treasury, and a hospital overburdened by a failed lower level county managed health system.

The Committee recommends an overhaul of the leadership at the hospital, enforcement of the referral strategy and increased resource allocation. The Committee also recommends that relevant regulatory bodies update their operating standards and uphold utmost professionalism by health sector professionals.

Finally, the Committee urges the Ministry of Health to speedily operationalize the Health Act 2017 to address various areas of concern within the country's health care system.

PART I

1.0 BACKGROUND

1.1 Establishment of Kenyatta National Hospital

1. KNH was established in 1901 with a capacity of 40 beds. The Hospital operated as a department of the Ministry of Health until 1987 when its status changed to a State Corporation through Legal Notice No. 109 of 6th April 1987.
2. The Hospital works closely with The College of Health Sciences of the University of Nairobi and Ministry of Health, the leading tertiary healthcare training centres in Kenya and the East Africa region.
3. The Hospital was established under Legal Notice No.109 of 6th April 1987 and is mandated to:
    i) Receive patient on referral from other Hospitals/institutions within or outside-Kenya for specialized health care.
    ii) Provide facilities for medical education for the University of Nairobi and for research.
    iii) Provide training facilities in nursing and other health and allied professions.
    iv) Participate in national health planning.
4. The Hospital established capacity is as summarized below: -
    a) Bed capacity of 2063 (bed occupancy can however go beyond 100% because of accepting patients beyond the capacity.
    b) There are 50 wards, 24 clinics and 26 operating theatres
    c) On average inpatients 2400 daily, 70,000 admissions annually
    d) On average outpatients 2500 daily, 600,000 annually

1.2 Chronology of the inquiry

1.2.1 Committee's work plan

5. During its induction retreat held in Mombasa in January, 2018, the Committee in its work plan resolved that as part of its oversight role will conduct fact finding visits to the two referral hospitals in country, Kenyatta National Hospital and Moi Teaching and Referral Hospital with a view of investigating on their operations and coming up with recommendations on how to revamp the facilities that have so far due to subsequent systemic failures hampered their abilities to deliver quality services to Kenyans.

1.2.1 Breakdown of essential machines

6. Before the Committee could embark on its usual oversight role at the hospital, a story appeared on the mainstream print media on 15th January 2018, painting a grim picture of the status of the country's largest public referral facility. It alleged that various critical clinical equipment at the hospital had broken down hence stalling service delivery at the facility.

1.2.2 Allegations of Sexual Assault

7. Soon after, on Friday, 19th January 2018, a viral social media post claimed that insecurity at hospital was at its peak. It further alleged that the security of the new mothers with babies in the nursery was wanting and that a mother who had twins through cesarean section was nearly raped at 0300 hours, while on her way to breastfeed her baby. The posts elicited widespread reactions in the country.
8. The two incidents accelerated the Committee's scheduling of investigation at the hospital, and immediately invited management to a meeting to respond to these grave allegations. The Committee then conducted an inspection visit to the facility on Wednesday 31st January, 2018. The objective of the fact finding visit to the hospital

was to tour critical service areas, as part of the investigations into general operations of the hospital.

1.2.3 Theft of baby at the hospital

9. In another demonstration of the general insecurity situation at the hospital, a couple lost one of their two-week-old twins in the Hospital on Sunday 18th, February 2018. The infant's father, Job Nyatiti Ouko said that he rushed his wife to the hospital at 2am on Sunday 18th, February, but they were forced to wait to see a doctor at the Accidents and Emergency section for more than 9 hours. Upon inquiring the reason for the delay he was told that room 108 where she was to be admitted in was yet to be cleaned.

10. When the room was finally available at 11.30 am, he was asked to wheel his wife to the room. He decided to ask the two women who were in the queue with him, to look after the children as he wheeled his wife to room 108. However, one of the two women took off with the other baby.

11. The baby was later found in Kawangware on 20th February, 2018 after a tip-off from the public.

1.2.4 Surgical mix-up at the hospital

12. The Committee attention was further drawn to media reports on the unintended surgical intervention that had happened in Kenyatta National Hospital.

13. The Committee learnt that, on 19th February 2018, at around 10.50 p.m. a wrong patient was inadvertently taken to the trauma theatre to undergo a craniotomy operation. The mistake was realised in the morning of 20th February 2018 at around 6.30 am, when the primary nurse reported on duty and realized that the wrong patient had been sent to theatre.

14. On 7th March, 2018 the Committee's Chairperson issued a press statement that it would speedily start and investigate operations at the hospital and the specific cases mentioned above and table a report to the House.

1.3 Public participation

15. The Committee was alive to provisions of the Constitution that called for involvement of the public in matters that affect them, particularly Article 118.
16. Not only did the Committee comply with provisions of the Constitution and Standing Orders, but also adopted an open door policy to any person who may have had information for the benefit of the inquiry. This was mostly extended to the end users, those who may have accessed the hospital for services, their relatives and/ or other interested parties.
17. Further, the Committee engaged patients at the hospital, and most importantly, the two patients involved in the surgical mix-up.

1.4 The hospital referral system

18. The Committee researched on the ideal referral system in other jurisdictions in an effort to draw parallels and identify gaps and pitfalls at KNH to be addressed. We established the following;
19. A referral is a process in which a health worker at a one level of the health system, having insufficient resources (drugs, equipment, skills) to manage a clinical condition, seeks the help of a better or differently resourced facility at the same or higher level to assist.
20. Referral system which is always typically pyramidal plays a vital role in management of diseases in any healthcare system. Primary healthcare centers (PHC) constitute the base, which is large in numbers. Less number of secondary centers are in the middle, and a fewer number of tertiary care centers constitute the top.
21. The PHC offer the minimum levels of essential tests and all basic treatments on an outpatient care basis, the secondary level centers are able to offer most of the

diagnostic tests and management facilities, including hospitalization, interventional procedures, surgery, and rehabilitation programs. Tertiary level centers usually restricted for complex interventions and surgical procedures, prescription of high end costly tests. Secondary and tertiary level centers are also important for appropriate for training programs to strengthen our health care workforce.

Organization of Health Care in Kenya

22. The Constitution of Kenya guarantees the right to the highest attainable standard of health, which includes the right to health care services such as reproductive health care. The Constitution further states that no person should be denied emergency medical treatment. The right to the highest attainable standard of health in a hierarchical health system can be possible only through an effective health referral system.

23. The Fourth Schedule of the Constitution on the distribution of functions between the national and county governments assigns the management of national referral health facilities, health policy development, capacity building to counties, and disaster management to the national government. The provision of health services at all other levels is assigned to county governments.

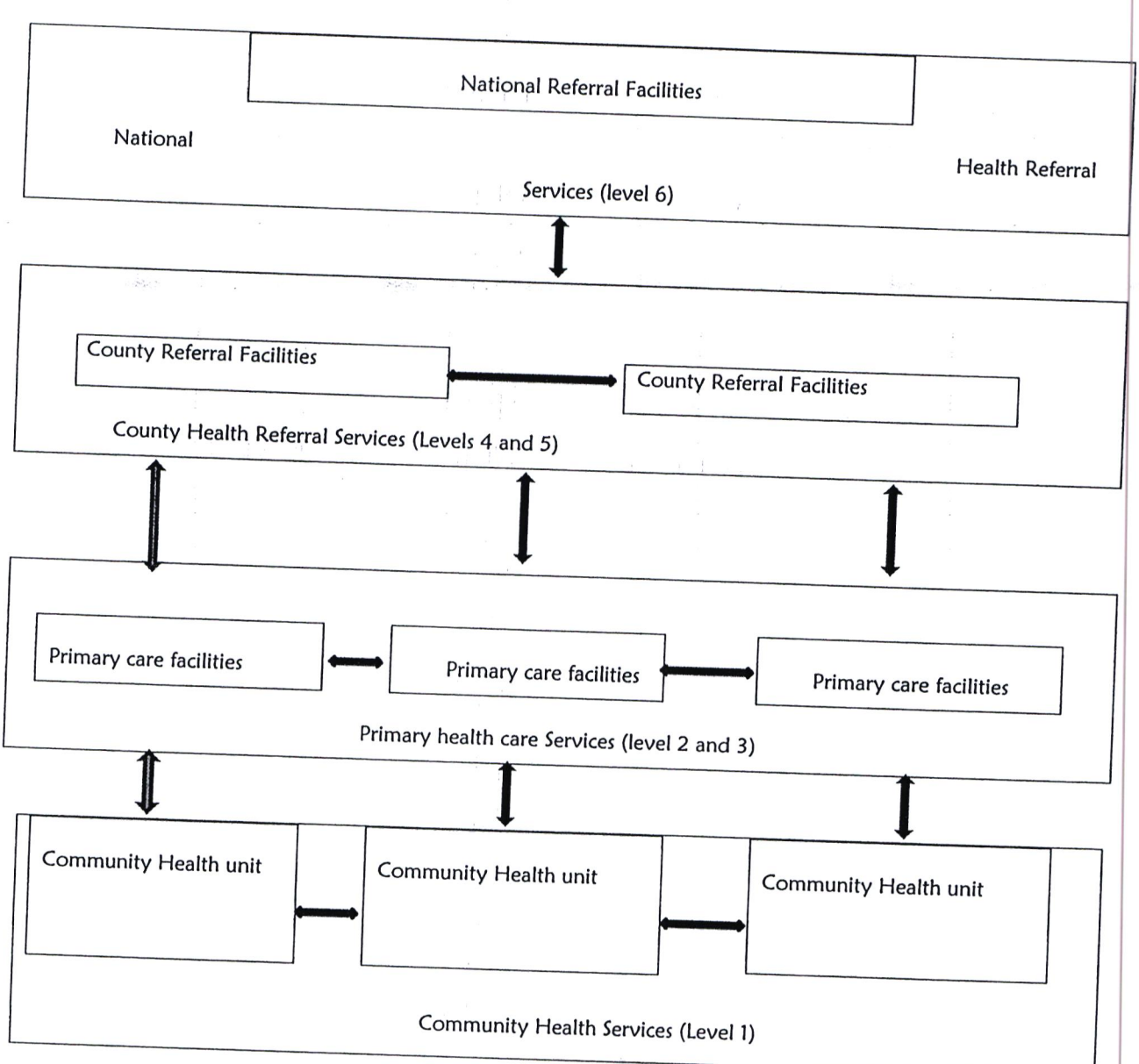
24. The health system in Kenya is organized around six levels of care based on the scope and complexity of services offered;

- **The first level** comprises community units that are a collection of households staffed by volunteer community health workers. Activities at the community unit level focus mainly on promotive health through health education, treatment of minor ailments, and identification of cases for referral to health facilities.
- **Levels 2 (dispensaries) and 3 (health centers)** offer primary health care services. These levels of care form the interface between the community and the higher level facilities. These facilities offer basic outpatient care, minor surgical services, basic laboratory services, maternity care, and limited inpatient facilities. They also coordinate the community units under their jurisdiction.

- **Levels 4 and 5**, the secondary referral facilities, form the county referral facilities. They offer a broad spectrum of curative services, and some are also health training centres.
- **Level 6** constitutes the tertiary referral facilities that offer specialized care and specialized training to health workers. The national government manages these facilities, but they are semi-autonomous organizations. Kenyatta National Hospital and Moi Teaching and Referral Hospital, Eldoret fall here.

The Referral chain

25. The referral system links up the different levels of care based on the expected services being provided through the system. The figure below shows the overall referral chain;



Referral Services in the Service Delivery Approach

26. A referral system is a mechanism to enable comprehensive management of clients' health needs through resources beyond those available where they access care.
27. The organization of service delivery into six levels of care is intended to rationalize the delivery of health services within the health system for efficient use of existing resources. This categorization also means that a client's direct access to health service delivery may not be able to adequately manage the client's health needs.
28. The referral system is what facilitates continuity of care across the different levels of care. The referral system is based on the premise that, while capacity for health

service delivery needs to be rationalized for different levels of care, those health services should not be determined only by the services available at the point of access, but rather by the full scope of care that the health system can provide.

29. An effective referral chain, therefore, provides the linkages needed across different levels of health system care. These linkages ensure that a client's health needs can be addressed, regardless of the level of the health system where the client physically accesses care. The referral system acts as a building elevator or lift to facilitate forward and backward management of a client's needs across different floors, or levels of care.

Ideal Framework for health referral Services

30. The full scope of referral services expected of the health services includes movement of clients, expertise movement, specimen movement, and client parameters movement

Requirements for Effective Referral Services

31. For effective functioning of the referral system, the overall health system needs to have basic provisions to adequately respond to referral needs. Some of the requirements for the health system building blocks to facilitate effective referral response:

- Quality health services: Design and deliver systems that provide effective, safe, high-quality personal and non-personal health interventions when and where needed.
- A well-performing health workforce: Retain sufficient, competent, responsive, and productive health staff.
- A well-functioning health information system: Produce, analyse, disseminate, and use reliable and timely information.
- An efficient system of access: Ensure availability of essential medical products, vaccines, and technologies of assured quality, safety, efficacy, and cost-effectiveness, and their scientifically sound and cost-effective use.

- A good health financing system: Make available adequate funds for health in ways that ensure people can use needed services and are protected from financial catastrophe or impoverishment associated with needing to pay for them.
- Leadership and governance: Ensure the existence of clear, comprehensive guidance to service delivery combined with effective oversight, coalition building, regulation, attention to system design, and accountability.
- Health infrastructure: Develop physical infrastructure, equipment, transport, and technology required for effective access of health services for each level of care.

Comparative analysis

United Kingdom

32. The National Health Service (NHS) is the publicly funded healthcare system for England and one of the four National Health Services of the United Kingdom. It is the largest single-payer healthcare system in the world.
33. The NHS is free at the time of use, for General Practitioner (GP) and emergency treatment not including admission to hospital, to non-residents.
34. In the UK, a certain number of people register under a GP. Say, service of 1000 populations is catered by one GP. One is entitled to ask for a referral for specialist treatment on the NHS. However, whether one gets the referral depends on what the GP feels is clinically necessary in that case. If a patient wishes to be referred to a specialist in any field, such as a surgeon, or a gynecologist, he or she has to see the GP they are registered with. This is because all medical records are held by the General Practitioner. The GP also generally understands one's health history and treatments better and will base any decision for a specialist referral on this knowledge. So in case any urgency or emergency they have to go to the GP first, if he/she thinks that the patient needs referral, only then he can go to the higher level facility. So there is a systemic pathway of referral which has to be followed by all.

35. Referral management centres are also used to help reduce inappropriate referrals.

New Zealand

36. An innovative referral system was developed by Canterbury Health Services in New Zealand in 2008 which they called "health pathways". These "health pathways" were basically consensus statements on a written standard protocol whereby doctors and health workers have collectively planned "patient pathways" and "treatment protocols." It is managed by the community. It integrates guidelines on referrals and existing resources for doctors, to avoid unnecessary referrals. Simultaneously they also perform proper investigations to be performed before making a referral.

PART II

2.1 WITNESS SUBMISSIONS; ALLEGED RAPE, INSECURITY AND BREAKDOWN OF EQUIPMENT

37. On the matter of sexual assault, insecurity and breakdown of equipment, the Committee received oral submissions from the board and management, whose account is detailed herein;

2.2.1 Management and Board of KNH

38. The Committee met with the entire Board and Management of the KNH at the time, on 26th January, 2018. The subject matter at the time was the allegations of sexual harassment and the general security situation at the hospital and the breakdown of essential equipment. The delegation comprised the following;

i) Mr. Mark K. Bor	-	Chairman, Board of Management
ii) Lily Koros Tare	-	Chief Executive Officer
iii) Ms. Grace Mullei	-	Board Member
iv) Dr. Hellen Yego	-	Board Member
v) Dr. Daniel Gathegi	-	Board Member
vi) Mr. Robert Mbune	-	Board Member
vii) Dr. R.T Kamau	-	Board Member
viii) Prof. Fred Were	-	Board Member
ix) Mr. Calvin Nyachoti	-	Corporation Secretary
x) Dr. Githae B.N	-	Director, Clinical
xi) Mr. Carylus Odiango	-	Director, Corporate Services
xii) Mr. Peter Odundo	-	Senior Chief Finance Officer

They submitted the following;

39. After the negative publicity that dogged the hospital on the allegations of breakdown of essential medical equipment, attempted rape of a new mother and general insecurity at the hospital, KNH embarked on internal investigations to establish the

veracity of these allegations. During the course of investigations, the KNH staff on duty on the night of 17th/18th January 2018 when the rape incident was alleged to have taken place were interviewed and statements recorded.

40. In addition, 11 patients/mothers in gynecology wards, including those with babies admitted in New Born Unit, were interviewed with some of them recording statements. The internal investigators also reviewed CCTV footage to try and corroborate the allegations. The CEO thereafter issued a press statement.

41. The Hospital vide letter ref: KNH/SEC/6/A/(30) dated 19th January 2018, invited Directorate of Criminal Investigations (DCI) to help with the investigations and their report was still awaited. An internal preliminary investigation report was also forwarded to Cabinet Secretary on 22nd January 2018.

42. The preliminary findings were that KNH had yet to receive any complaints or reports on rape or attempted rape incident against mothers with newborn babies, at the time or previously. The Newborn Unit (NBU) is on Level One and not on the Ground Floor as alleged in the social media. The breastfeeding schedule, which is done at an interval of three hours, has precipitated mothers with babies to always walk to and from NBU in groups, especially during the night. At night, mortuary attendants collect bodies at 0300 hours. Although there are service lifts serving the hospital separate from passenger/patient lifts, the service lifts are not configured to stop on level one and two. Therefore, mortuary attendants use other lifts allocated to patients, staff and visitors or the ramps, when collecting bodies from the wards on this levels.

43. Factually, findings indicated that post-natal mothers with babies in NBU are admitted in post-natal wards in Reproductive Health Department or in Pediatrics Wards Level 3. On the night in question 17th January, 2018 a total of 94 mothers from Reproductive Health and 29 mothers from level 3 had their babies in newborn Unit. On an average a total of 120-140 mothers attend to their babies in new born Unit every three hours. The mothers went to feed their babies as expected (three hourly). None of the mothers from level 3 had a caesarian section. Two mothers both in post-natal ward 1A which is on the 1st floor got their babies through caesarian section on dates specified in the table below. The two had attended to their babies on the night

of 17th January, 2018 as expected. None of the mothers either in reproductive health or Pediatrics Level 3 had raised any complaints.

IPNO	DOA	DODELIVERY	DOD	AGE
1923675	7/1/18	8/1/18	11/1/18	33
1923337	29/12/17	30/12/17	2/1/18	21

44. Arising from the facts presented in this preliminary inquiry, there was no evidence to confirm that the alleged rape incident occurred. However, the Hospital invited the DCI to commence investigations and which investigations are ongoing.

45. In view of the gravity of the allegations, the Board resolved to immediately implement the following recommendations;

(i) The Board fully endorsed earlier actions by the Hospital Management on 19th January 2018 to commence internal investigations into the allegations as well as the invitation of the DCI to expediently conclude the on-going investigations and take appropriate action.

(ii) Immediate engagement of additional security complement from private security firms and has also requested the National Police Service to increase their coverage of the Hospital to boost security.

(iii) The Board also toured the affected area, spoke to patients and staff on their experiences and also made suggestions relating to physical and functional infrastructural improvements.

(iv) The Board communicated to the public that the infants in the newborn unit are separated from their mothers for clinical reasons i.e. to offer the infants ICU support and control infection. The Board has however asked the Hospital Management to explore if functionally, the breastfeeding mothers could be relocated closer to the newborn unit for their convenience.

(v) The Board invited members of the public who may have been affected by these allegations to come forward and report any complaints directly to the Board or direct their complaints to the relevant external investigatory agencies.

(vi) The Board also assured the Hospital clients of their safety within the Hospital as well as optimal service delivery.

46. Other actions agreed upon included;

i) Improvement the lighting within the Hospital.

ii) Procurement of modern body carriage trolleys.

iii) Prioritizing and fast-tracking the sourcing and implementation of the remaining phases of CCTV installation and Integrated Security System.

iv) Increasing the number of operational Digital Radio Communications sets.

v) Review bodies collecting schedule at 0200hours and 0430 hours to avoid coinciding with the mother's breastfeeding times.

vi) Enhancing periodic debriefing to mortuary attendants.

vii) Health and safety awareness of the Hospital's patients.

47. On reports of breakdown of essential equipment, the hospital had one Magnetic Resonance Imaging (MRI) that had been in use since 2005 for advanced diagnostic imaging. Since its purchase, it had been under comprehensive service contract with Philips EA Ltd until it became technically obsolete in January 2016. Since then, the machine continued to be on service contract on best effort until August 2017 when it had a second quench (loss of helium which is used for cooling the Magnet). Ideally an MRI has a life expectancy of approximately 7 years according to Biomedical Engineering Advisory Group, 2004 guidance paper. KNH requested for funding from the treasury but this was not availed. Thus, the machine was completely rendered obsolete following lack of support from the manufacturer having been on operation for 12 years.

48. The Hospital initiated replacement of the MRI and an international procurement tender was advertised on 16th January 2018 and will close on 20th February 2018. Expected delivery is tentatively by end of June 2018.

49. The Laparoscopy tower comprising camera head, Endomart, Monitor, diathermy and light source is used for Laparoscopy surgery, which is a non-open surgical procedure. The Tower in theater 6 had been defective since 9th June 2016. The local agent, Philips healthcare Ltd was invited to assess and repair it and found a defective

Diathermy, Autocon II. It was taken for factory repairs the same year. During installation of the Autocon II, the machine did not work. It took the local agent long time to establish that the Camera Head and Endormart were also faulty. The defective parts were outsourced to the local agent in November 2017 for repairs at their Service Centre in Dubai and expected back by end of February 2018.

50. However, the Hospital acquired a new Laparoscopy tower through the East African Kidney Institute project in December 2017. Installation and commissioning is now complete and new tower is currently in use in theatre 6. The Hospital had also placed an order for two additional towers which are expected by March 2018.

51. The Hospital has only one Skin Grafting machine (Zimmer Electric Dermatome) used for harvesting skin parts for purposes of grafting elsewhere, which was donated by visiting team of doctors more 15 years ago as second hand equipment. It got defective in 2015 and spares could not be found locally since the equipment was not supported by any local agent. Towards the end of 2015, the faulty part of the machine was taken to US for the donors to repair and it is yet to be returned. However, the Hospital was currently using manual instrument set specifically for skin grafting. Also, the Hospital was in the process of purchasing a new Dermatome machine. A procurement tender is in the process, delivery will be expected within the financial year.

52. On laundry services, two laundry facilities, the main laundry cleans all patient linen. A second laundry located at the Sisters Mess cleans doctors' scrubs, staff uniforms and linen for external clients. In the month of October 2017, four of the washer extractors at the main laundry broke down due to lack of spares forcing the Hospital to outsource laundry service to Nairobi Hospital. The machines were repaired in November 2017 and have been operational since then.

53. The management and board also submitted information that demonstrated the hospital's predicament. These included underfunding by Treasury and overcrowding at the hospital largely stemming from failure of lower tier devolved hospitals to treat patients before considering referral. The former had restricted personnel numbers at the hospital as well as other operational priorities.

54. Further, incessant strikes witnessed in the recent past by medical personnel especially at the lower level hospitals doubled and even tripled patient numbers at the KNH.

2.2.2 Visit to the KNH by the Committee

55. The Committee made a fact finding visit to the hospital on 31st January, 2018 and toured various facilities and met the management in its boardroom.

56. The Hospital administration led the Committee on a guided tour of the facility's various departments i.e. Accident and Emergency (A&E) section, Trauma Centre, Maternity ward/New Born Unit and Theatre. The Committee also inspected some of the medical equipment i.e. Magnetic Resonance Imaging (MRI) scan, Laparoscopy tower machine and the management later presented status report of the laundry facilities.

57. During the tour, discussions with the personnel were held on the experiences and challenges they faced on daily basis and possible solutions to their problems. Thereafter, the Committee held a post-tour brief with the Hospital administration

58. Although Accident & Emergency unit was renovated in 2015 courtesy of Old Mutual Insurance and has ample space and well trained personnel, it is still overstretched since it attends to an average of 400 patients daily.

59. The MRI has been in operation since 2005 (for 12 years) and was rendered obsolete in January 2016. However, it has been on service contract until August 2017 when it was completely rendered obsolete due to lack of helium and lack of support from the manufacturer.

60. The hospital initiated replacement of the machine by advertising an international procurement tender on 16th January, 2018. The new MRI scan machine would be delivered by end of June, 2018.

61. The Committee visited the maternity ward and new born unit and found the following;

    i) Services at the unit are severely overstretched;

ii) Even after delivery some mothers are still lodged at maternity ward due to pending bills and this has partly been contributed by failure of Linda Mama program to cater for infants and also failure by some mothers to register for NHIF cover.

iii) The unit has a bed capacity of 50 but at time of visit held 132 babies;

iv) There are around 80 births a day and between 1200 and 2000 per month. This has stretched out and strained human resource at the facility since they are mainly referrals;

v) There are 20 incubators but only 10 are functional. Due to this babies share incubators hence the risk of cross infections;

vi) There are 9 Nasal continuous positive airway pressure but only 6 are functional;

62. The Committee visited the operating theatre ward and found the following;

i) The facility has 22 operating theatres and although some of the machines are functional they are ageing fast;

ii) The facility requires adequate number of heart and lung machines; currently it is using a borrowed one;

iii) Only one laparoscopic equipment that is used for keyhole surgery is functional, the hospital requires four (4) of this equipment for it to provide proper services to the patients;

iv) There are 21 beds at ICU unit. However, there is a huge number of patients staying longer than medically required hence taking up space needed by sick patients waiting for admission.

v) Almost all theatre tables, which are used to facilitate the correct orientation of patients for surgical procedures, are more than 3 decades old;

vi) The hospital lacks proper training facilities for students trainees, for example it's not yet possible to project what is happening in the operating theatre to lecture theatres at the facility;

63. The Committee visited the trauma center and found the following;

i) 400 out of 2000 patients admitted at KNH are trauma patients; translating to about 25% of the patients in the facility;

ii) The ward has a bed capacity of 36 but at time of visit held 113 patients;

iii) More than two patients share a single bed at the ward

2.2 WITNESS SUBMISSIONS; SURGICAL MIX-UP

On the matter of unintended surgery, the Committee received oral submissions from the board and management, 18 individual witnesses, and the KMPDB whose each account is detailed herein;

2.2.1 Medical Personnel involved in the surgery mix-up

64. The Committee met with the surgical team that conducted the surgery in which there was a mix-up of patients at the KNH on 14th March, 2018. The team comprised the following;

i) Dr. Micheal Magoha	-	Junior neurosurgical consultant
ii) Dr. Dave Mangar	-	Neurosurgery resident, UON
iii) Dr. Hudson Ng'ang'a	-	Junior neurosurgery resident
iv) Dr. Mose Moraa	-	General surgical resident, UON
v) Dr. Okedi Nelson	-	Registrar, orthopedic surgery
vi) Mr. Malachi Odhiambo	-	Assistant chief clinical officer (anesthetist)
vii) Ms. Linet Makori	-	Senior nursing officer
viii) Ms. Catherine Gakii	-	Senior nursing officer
ix) Ms. Mary Wahome	-	Nursing officer I

They submitted a chronological account of the mishap in three sets, the consulting doctor, nurses and neurosurgeons;

65. Dr. Nelson Okedi examined the patient, Mr. John Nderitu at the casualty. The patient had suffered a motor bike accident and was bleeding in the head. The CT scan showed that he had a blood clot in the head which would require surgery to remove.

66. He then consulted a colleague, Dr. Daniel Kanyatta who concurred with his assessment. They then recommended surgery, had a relative of the patient sign the consent form and it was at this point that he left the patient and his report to nurses to facilitate the next course of action as is the practice.

67. Ms. Mary Wahome, a surgery ward nurse, submitted that she was on duty on the evening of 19th February, 2018 together with a team of about four nurses including one Mr. Gideon Mwangi. It is Mr. Mwangi who received handover reports from the team in the previous shift, including one due for neurosurgery, belonging to a Mr. John Nderitu.

68. Ms. Wahome said the team of nurses was outstretched, handling about sixty patients in total, and also responding to customer care queries. The handover was therefore not done physically and bed to bed as should be the case.

69. At around 9.15 pm, a trauma theatre nurse called and asked for the patient John Nderitu, and sent a porter to collect him. Ms. Wahome then went to the ward and called out the name 'john Nderitu'. A patient nodded in response, after which she went back to the station, prepared a label, and collected the file and antibiotics. She went back to the ward with the porter, called out the name again and tagged the patient who nodded again in response. She informed the patient that he was going for surgery, of which the seemingly confused patient nodded.

70. At around 10 pm at the theatre, Ms. Wahome handed over the patient and file to nurse Catherine Gakii. Her job was done here. At 2 am of 20th February, 2018, her colleague Gideon Mwangi asked her of the whereabouts of patient John Nderitu of which he informed him he was in theatre. At 6.30 am, another nurse, Miriam Mbela reported to duty and asked Ms. Wahome if the patient was taken to theatre. It was at this juncture that Ms. Wahome discovered she had taken the wrong patient to theatre.

71. She immediately called trauma theatre and informed nurse Gladys Wanjala. Catherine Gakii then convened a meeting to discuss the mistake. At midday, she held discussions with the Assistant Chief Nurse, a Mrs. Okech, and subsequently met the board and management on 5th March 2018.

72. Ms. Catherine Gakii submitted that she reported to work on 19th February, 2018 at 5.30 pm.

73. She received a handover of seven pending emergencies. The report of a Mr. John Nderitu was among them and had been brought in theatre at around 2 pm but wasn't received since there was no blood. She was tasked to facilitate. She went about preparing other patients until around 9 pm when she called ward 5A to bring in John Nderitu since blood was now ready.

74. When the patient was brought, she greeted him but he only nodded in response. The patient was already labelled at this point, and together with the file and bio data, she ticked the pre-operative checklist and was certain the patient was the correct one. She then called the anesthetist to take over the patient pre-surgery.

75. It was only at around midnight that she was called to confirm if the patient was the right one because findings were at variance with the CT scan. She perused the file again and called ward 5A to confirm. Everything matched the profile of John Nderitu.

76. Later on, recovery ward nurse Gladys Wanjala received a call from Ms. Wahome informing her that they probably brought it the wrong patient. Ms. Gakii asked for the other file and discovered it belonged to a Mr. Samuel Kimani. She then immediately informed the surgeons and reported to her own supervisor. She then called a small meeting to establish what went wrong, and filled in a medical error form. Her supervisor, Ms. Ndula Makau asked her to write a report on the 21st February, 2018, held several meetings on the same and met management on 5th March 2018.

77. Mr. Malachi Odhiambo, the anesthetist, said that he reported to duty on 19th February, 2018around 5.30 pm. He was handed over to by his colleague, a Dr. Kinuthia after which they did an orthopedic case of another patient together.

78. At around 10.50 pm, the nurse team leader, Ms. Catherine Gakii called him to corroborate John Nderitu before surgery. He perused the file and tried to talk to the patient who could not converse. He checked all requirements, i.e. positively identifying the name of the patient through the label and file including the CT scan.

He then confirmed that blood was available, and checked pre-operative vital signs including blood pressure, pulse and blood sugar levels.

79. They then wheeled the patient into the theatre room and set up monitoring equipment and an intravenous access on the patient for fluids. He prepared medication and induced anesthesia. They displayed the CT scan on the board.

80. Dr. Hudson Ng'ang'a Kamau, the neurosurgeon in the presence of Dr. Mose Moraa consulted Dr. Micheal Magoha on the need for surgery and he concurred. Dr. Ng'ang'a and Dr. Moraa then shaved the patient and positioned him for surgery.

81. The surgery commenced and after opening the cranium, they could not locate the intracerebral hematoma (the clot). They reconfirmed on the CT scan and called the ward to confirm if indeed this was the right patient. Ms. Gakii responded in the affirmative.

82. They then called Dr. Mangar, a senior registrar on call, who reviewed the scan and file and affirmed that all was in order. He also could not find the clot.

83. They then called Dr. Magoha, a junior consultant on call, who also reviewed the CT scan and file, patient positioning and site of surgery and confirmed everything was correct. He proceeded to look for the clot and could also not find it.

84. The doctors then made a decision to close the wound, and do an urgent CT scan to establish the dilemma.

85. Before the scan was done, a ward 5A nurse called the trauma theatre and informed him that they had the wrong patient, a Mr. Samuel Kimani. They then reported to their supervisors Dr. Gichuru Mwangi, senior consultant and Prof. Nimrod Mwang'ombe, head of neurosurgery thematic unit.

86. After this discovery, Prof. Mwang'ombe led the neurosurgical team to review the two patients involved in the mix up, and based on current conditions, recommended conservative management for John Nderitu. Samuel Kimani was stable and doing well post-operatively.

2.2.2 Acting CEO, Management and Board

87. The Committee met with the acting CEO, Board and Management of the KNH first on 14th March, 2018. The board was neither fully constituted nor quorumed and the Committee rescheduled the meeting to 15th March, 2018. The delegation comprised the following;

i) Mr. Mark K. Bor	-	Chairman, Board of Management
ii) Dr. Thomas Mutie	-	Ag. CEO
iii) Ms. Grace Mullei	-	Board Member
iv) Dr. Hellen Yego	-	Board Member
v) Dr. Daniel Gathegi	-	Board Member
vi) Mr. Robert Mbune	-	Board Member
vii) Dr. Richard Kamau	-	Board Member
viii) Prof. Fred Were	-	Board Member
ix) Mr. Calvin Nyachoti	-	Corporation Secretary
x) Mr. Carylus Odiango	-	Director, Corporate Services
xi) Ms. Rosemary Mutua	-	Ag. Deputy Director, Nursing Services
xii) Mr. Peter Odundo	-	Senior Chief Finance Officer
xiii) Mr. John Anyira	-	Representative. KMTC

They submitted the as follows as regards the administrative action taken by management and the board in the wake of unintended head surgery;

88. After the surgical mishap, Prof. Mwang'ombe reviewed both patients – Samuel Kimani Wachira and John Nderitu Mbugua, and based on the patient's immediate state, a decision was made to change John Nderitu Mbugua's management, from operative management to conservative management owing to improved physical condition. Indeed, Patient Kimani was noted to be stable and doing well post operatively and a decision was made to undertake neuro-checks every two hours.

89. On 20th February 2018, Samuel Kimani Wachira's family members were informed of the surgery. On the same day, the Unit Heads (KNH and UoN) met and reviewed

both cases and subsequently reported the incident to the Acting Director, Clinical Services who then informed the substantive Director who was away on official business.

90. On 21st February 2018, the CEO Mrs. Lily Koros convened a meeting involving the Principal, College of Health Sciences – University of Nairobi Prof. Fredrick Were, the Director, Clinical Services Dr. Bernard Githae, the Deputy Director - Surgical Services Dr. John Ong'ech and the Deputy Director - Medical Services Dr. Thomas Mutie. In the meeting, various administrative actions were agreed upon. Specifically, it was resolved that;

(a) Effective 23rd February 2018, to immediately withdraw the admission rights of Dr. Hudson Ng'ang'a pending investigations because of lack of doctor's return notes when John Nderitu Mbugua was returned to the ward and lack of a pre-operative checklist in the patient's file.

(b) Effective 23rd February 2018, to place on interdiction pending investigations the following staff: -

- Nurse Mary Wahome for erroneously labelling the patient, taking the wrong patient to theatre and lack of pre-operative checklist in the patient file.
- Nurse Gakii Kabiti for absence of a pre-operative checklist in the patient's file.
- Mr. Malachi Odhiambo Siwa, Clinical Anaesthetist, for failing to sign patient John Nderitu Mbugua's consent form, and absence of a pre-operative check list in the patient's file

91. The Board of Management was represented in the deliberations and kept updated through the Principal, CHS-UoN, Prof. Fredrick Were who is also the Chairman of the Clinical, Research and Standard Committee of the Board of KNH.

92. The Clinical Research and Standards Committee of the Board directed the Management to embark on investigations into the circumstances leading to the incident.

93. On 2nd March 2018, the Cabinet Secretary for Health directed the Board of Management to investigate the circumstances that led to the unintended surgical intervention and to sanction a system audit to evaluate the adequacy and effectiveness of the Hospital's internal controls.

94. The Board of Management on 3rd March 2018 sent the CEO and Director, Clinical Services on compulsory leave to facilitate investigations into the circumstances surrounding the incident.

95. Further, the Board appointed a Special Committee of the Board to spearhead the investigations process. The Committee has completed its task and presented the Cabinet Secretary with its report.

96. They added that the Hospital has in place a corporate quality manual which specifies Standard Operating Procedures (SOPs). The SOPs define practices which need to be followed in word and spirit by all employees strictly and without deviation. The following SOPs were operational preceding and during the surgery: -

(a) SOP/KNH/CORP/021 on Procedure for Admission

(b) SOP/KNH/CORP/023 on Procedure for In-patient Care

(c) SOP/KNH/CORP/024 on Procedure for Perioperative Management

(d) Nursing Council of Kenya Manual of Clinical Procedures, in particular:

- Admission of a patient
- Transfer of a patient
- Giving verbal and written reports.

97. Further, the Board submitted that they had taken various immediate actions going forward;

i) Strict enforcement of the use of arm/wrist bands to identify all patients on admission.

ii) Strict enforcement of the Corporate Standard Operating Procedures.

iii) The procurement of human marker pens to mark surgical sites on the patient and insert a template checklist of the human anatomy in all patient files for highlighting of the affected parts.

iv) Mandatory physical review of the patient by the attending doctor prior to surgery.

98. The Board further directed the Corporate SOPs be reviewed, specifically on:

- Requirement on the use of arm/wrist bands to identify all patients on admission.
- Requirement that pre-operative checklist be placed in all in-patient files on admission.

99. The Board had also engaged an audit firm to review the hospital internal control systems and make recommendations.

100. To manage the hospital reputation and stakeholder relationships, the Board engaged a Public Relations and Media Consultant and had directly released various press statements to allay fears and assure the public of its commitment to optimum service delivery.

101. The Board also prepared and submitted a report and individual statements to the Medical Practitioners and Dentist Board, Nursing Council of Kenya and Clinical Officers Council to facilitate investigations on the professional conduct of the clinicians involved.

102. In the medium to long term, the Board is taking steps to engage more staff and was reviewing the relationship with key stakeholders and in particular, the working relationship with the University of Nairobi. A review of the work schedule for registrars in consultation with the College of Health Sciences was also being done.

103. The Chairman of the Board, Mr. Bor, confirmed that it was indeed the full board that made the decision to suspend the CEO and Director Clinical Services and not the Cabinet Secretary. This action was not disciplinary but as an avenue to facilitate investigations.

2.2.3 Mr. John Nderitu

104. The Committee met the patient at the centre of the surgical mix-up, Mr. John Nderitu and his relatives on 14th March 2018.

105. Mr. John Nderitu was the patient to whom the surgical procedure had been presecribed by the doctors but did not receive it. He and his relatives gave an account of events leading to the mishap.

106. The sister, Ms. Pauline Njeri received a telephone call from a stranger on 18th February, 2018. The stranger, now good Samaritan, stated that her brother, John Nderitu had been found injured at Kahawa West, having been in a motor cycle accident. She demanded to speak to her brother to confirm the story.

107. Ms. Njeri then called her other sister, Esther Nderitu and her husband who lived not too far from the accident scene to rush and attend to their brother. The two took him to St. Francis Hospital in Kasarani where the medics examined him and conducted a CT scan. They established he needed urgent specialized attention and referred him to KNH.

108. They arrived at KNH around 9 pm, did not get adequate attention until around 6 am the following morning when a Dr. Nelson advised that John required surgery. After explanations she signed the consent form and paid a deposit of Kshs. 20,000.

109. After shuttling from room to room, they were told by nurses to look for a stretcher bed, after which they were told to wheel the patient to surgical ward 5A, without escort by any medical personnel. Once there, they were asked by nurses present to push him to the theatre entrance and were then asked to retreat. They were told the surgery would take 4-6 hours.

110. Two of John's sisters remained behind to monitor the situation. Two hours later, now around 6 pm, they were told the patient had been returned to the ward 5A due to lack of blood for surgery. Nurses advised that this was being arranged and the surgery would be done overnight. This comforted them and they left for the day around 7 pm, leaving the patient asleep in the wards.

111. The next morning of the 21st February 2018 at about 8.30 am, a cousin, Ms. Rachel Warumi went to check the outcome of the surgery. She was surprised to find John still in the wards, with the explanation from nurses that the blood was not forthcoming. She however heard from another doctor that blood was found and was not sure why the surgery was not done. It is then that a team of four doctors holding

John's file appeared to review the patient. After they left, Ms. Warumi enquired from the nurse what was happening and she was told that the doctors had reviewed the patient and he no longer required surgery.

112. The patient stayed in the hospital until 7th March, 2018, with unsatisfactory attention from the medical personnel with no drugs issued. All this time, no label was put on their patient. Medicine, adequate food and cleaning services were only issued when the Cabinet Secretary (CS) appeared two weeks later. On discharge, they received prescription to go buy medicine for the patient, to be reviewed on the 19th March 2018.

113. They heard about the mix-up of the two patients from a Dr. Gichuru Mwangi, who attempted to address their concerns. They added that doctors at the facility were generally responsive to patients and relatives; the same could not be said for nurses.

114. The family reported that they were tortured by fake reports by sections of the media that their patient had died. They were also apprehensive about returning to KNH for the review. They had also not received the full refund of their costs as ordered by the CS.

115. Mr. Nderitu submitted that he was unemployed but survived on informal menial jobs; after the accident he could not perform. He was generally slowly improving but still experienced bouts of headaches.

116. Nobody at the hospital or elsewhere had reached out to them since discharge.

2.2.4 Mr. Samuel Wachira

117. Mr. Amos Wachira, brother to Mr. Samuel Wachira, appeared before the Committee on 14th March, 2018 accompanied by advocate Isaac Wahome and submitted as follows;

118. A social worker from KNH by the name Bahati called his father on 22nd February, 2018 and informed him that an unidentified patient was admitted at the facility. The patient could only remember this telephone number off head.

119. His father dispatched him to rush and check up on Samuel. When he arrived at the hospital on the same day, he found him admitted at ward 5A with the head surgery already done. Samuel could talk but not constructively. The patient was not labelled at the time.

120. He was told that Samuel was received at the hospital on 19th March 2018 unconscious.

121. He then received a bill of Kshs. 98,425, and shortly after got information that the case was special and therefore the fee was waived.

122. The patient was set to be discharged on 5th March, 2018 but left the hospital two days later. He was given medication and was since recovering well. An appointment for review was set for 19th March, 2018.

123. Samuel was 37 years old and had no prior medical history; he worked at Pangani Girls School as a cook, and he could not remember what happened to him, or how he found himself at KNH.

124. The family had since reported to and filed a complaint with the Medical Practitioners & Dentists Board and were due to appear in its hearings. They were yet to file the matter before any court.

125. Nobody at the hospital or elsewhere had reached out to them since discharge.

2.2.5 Dr. Benard Githae

126. Dr. Githae, the Director Clinical Services at the KNH appeared before the Committee on 15th March 2018 and submitted as follows;

127. He had worked at the hospital since 1991. His duties as Director Clinical Services included ensuring adherence to laid down standard operating procedures.

128. As the isolated incident of the surgery mix up happened at the hospital, he and members of the board were in Mombasa validating the hospitals strategic plan. Dr. Etau whom he left in the office to act in his absence informed him on the matter on 20th February, 2018. Dr. Githae instructed him to investigate the matter of which Dr. Etau sent him an incidence report the next day.

129. On 22nd February, 2018 a meeting was held at the hospital comprising the CEO, Dr. Githae, Dr. Mutie the head of medical services, Dr. Ongech the head of surgical services and Prof. Were the Principal of College of Health Sciences, UON. A decision was to immediately do the following;

i) Suspend the admission rights of the registrar pending further investigations. This was due to lack of medical notes when he initially returned John Nderitu to the ward and a lack of a pre-operative checklist in the patient's file;

ii) Instruct the human resources department to send show cause letters to the following;

- Mary Wahome- nursing staff ward 5A for erroneous labeling, taking the wrong patient to theatre and lack of pre-operative check list in the patient's file.
- Gakii Kibiti- senior nursing officer at trauma theatre for absence of a pre-operative check list in the patient's file.
- Malachi Odhiambo Siwa- Anesthetist, for failing to sign the patient consent form and absence of pre-operative check list in the patient's file

They were all given seven days to respond in writing.

130. On 2nd March, 2018, before receipt of responses from the involved officers, the Cabinet Secretary advised him to proceed on compulsory leave pending investigations.

131. He disputed reports by the relatives of the two patients on neglect and stated that doctor rounds were done twice a day, away from visiting hours, and thus the relatives may not have seen this.

2.2.6 Ms. Lily Koros

132. Ms. Koros was the CEO of the KNH since 24th February, 2014 and was sent on compulsory leave on 2nd March, 2018, following the surgical mishap. She was serving her second and last term. She appeared before the Committee on 15th March 2018 and submitted as follows;

133. She first and foremost regretted the isolated incident of the surgical mix-up and appreciated the Committee efforts to get to the bottom of it.

134. As the CEO her main roles included providing leadership and implementing board decisions, long term strategies and prudent management of resources. She was also to promote compliance to standards and ensure sound corporate governance.

135. She received reports of the matter on 20th February, 2018 and immediately consulted Dr. Githae who was the Director Clinical Services, in Mombasa on official business at that moment.

136. The following day, they held a meeting with Dr. Githae, Dr. Mutie the head of medical services, Dr. Ongech the head of surgical services and Prof. Were the Principal of College of Health Sciences, UON. They made the decision to suspend the registrar, two nurses and anesthetist and further resolved the following;

- An advisory committee meeting be held after the show cause responses had been received back by the 2nd March, 2018
- The hospital disciplinary and advisory committee to comprehensively investigate the matter
- The outcome of these investigations be submitted to relevant regulatory bodies including the Medical Practitioners & Dentists Board and the Nursing Council, as this was a matter of professional misconduct.

137. On the 1st March, 2018, a journalist called her around 7 pm informing her that the story would go to press by 7.30 pm. She prepared a statement and sent it to all newsrooms at 9.00 pm.

138. The next day, the story appeared in the papers and while at the NYS headquarters on official duty, she was called and informed that the Cabinet Secretary would be visiting the hospital at 2.30 pm.

139. The CS was briefed by the management and board members present. She said the matter was beyond the board and that a decision had been made. She then asked management to step out of the meeting; they returned after 20 minutes and were informed of the decision to suspend the CEO and Director of Clinical Services. They were to clear and hand over by the following day.

140. She did not immediately inform the board of the matter because she was awaiting outcome of investigations after due process. Further, Prof. Were, a board member, was aware of the matter. Being a professional mishap, she felt this was a matter for the regulatory boards and did not see the need to inform the CS.

141. She denied being hands off but admitted that as CEO, she could not be involved in the numerous medical procedures at the hospital. These were matters directly handled by respective heads of the units and directorates.

142. She did not directly suspect foul play in the matter but was curious at the sequence of revelations of these incidences and bad press all happening on or around January 2018. This was especially since most of the matters had happened several months before and had in fact been resolved.

143. She added that she had made attempts at streamlining procurement at the institution by systematically moving supplies to government agencies for cost effectiveness. This especially affected fuel for the furnace steam boiler and the hospital's vehicle fleet.

144. She stated the hospital had made numerous strides in improvement of services and that the board was supportive. This was in spite of the numerous challenges already well documented.

2.2.7 Mrs. Sicily Kariuki, CBS

145. Ms. Kariuki is the Cabinet Secretary (CS), Ministry of Health. She appeared before the Committee on 16th March 2018 accompanied by the board of KNH, and the following officers of the ministry;

i) Mr. Peter Tum - Principal Secretary
ii) Dr. Kepha Ombacho- Director Public Health
iii) Mr. Ibrahim Abdi- Undersecretary, Administration
iv) Dr. Annah Wamae- Deputy Director of Medical Services

146. Ms. Kariuki, the substantive head of the ministry and its agencies, including the KNH, publicly waded into the matter when she was reported to have announced the

suspension of the CEO and the Director Clinical Services, on 2nd March, 2018. She submitted as follows;

147. The CS clarified that she did not suspend the CEO and Director Clinical Services. The two officers were sent on compulsory leave by the board on 3rd March, 2018, as per the letters signed by the board's Chairman.

148. She visited the hospital on 2nd March, 2018 at around 2.30 pm when she received a letter via email from the CEO, on the matter of the surgery mix-up. She had earlier heard of the matter from a journalist who called her during a private visit to the hospital earlier in the week.

149. During the visit of the 2nd March, she went round the wards accompanied by chairman of the board and a few of his members. She met the two victims and conveyed her apologies, and arranged for NHIF enrolment for them.

150. During a meeting with the board members present, the CEO gave a briefing of the sequence of events leading to the unintended surgery and the state of investigations.

151. It is at this time that the board agreed with the CS that there was indeed a crisis and that decisive action had to be taken. It was at this juncture that it was found necessary to send the CEO and Director Clinical Services on compulsory leave to allow for investigations. This was in line with the hospital's human resource regulations and procedures. The board nominated Dr. Ongech and Dr. Mutie as acting CEO and Director Clinical Services respectively.

152. The full board met on 3rd March 2018 to ratify the earlier decision and agreed on the action. Dr. Ongech however declined the offer for personal reasons and the board appointed Dr. Mutie and Dr. Masinde as acting CEO and Director Clinical Services respectively.

153. The CS clarified that she stepped into the matter in performance of her duties as stipulated in a government circular requiring her to exercise policy oversight to safeguard public investment, performance and service delivery. It was an exercise to jolt the board into pro-activity, having noted certain weaknesses in it, including poor communication channels.

154. Moving forward, the CS said that to redeem public confidence, the board had constituted a Special Board Committee to investigate the matter. A preliminary report was submitted.

155. Further, the board had engaged an audit firm to review the hospital internal control systems and make recommendations in 30 days for improvement.

156. The CS also convened a meeting on 8th March, 2018 attended by the board, Kenya Medical Practitioners and Dentists Board, and senior ministry officials in which it was resolved to rescind suspensions and interdictions of the registrar and nurses, to allow the KMPDB, Nursing Council of Kenya and the Clinical Officers Council to conduct professional investigations as is their mandate.

157. The board was also in the process of finalizing its strategic plan 2018-2023 to guide the institution with the main focus being service improvement through effective resource mobilization.

158. The Ministry had also formed a task force which included the County Government of Nairobi to address congestion at the hospital. Nairobi was settled on because it contributed up to 70% of patients at KNH. Other stakeholders would however be involved at different levels.

159. She added that the ministry had begun consultations on provision of Universal Health Coverage (UHC) with the Council of Governors, and would also involve the National Assembly's Committee on Health.

160. The ministry had earmarked KNH to be a regional referral hospital to benefit from funding under the 10 year East African community health framework signed by the region's Heads of State in Kampala in February 2018.

161. Finally, the ministry had a Kenya Quality Model for Health that guides the organization of health services to deliver positive health impacts by addressing quality issues. A comprehensive policy on quality of care and patient safety was also under development.

2.2.8 Other medical personnel involved in the surgery mix-up

162. The Committee invited more medical personnel deemed to have come into contact preceding and after the surgical mix-up as mentioned by their colleagues who had earlier appeared. Prof. Nimrod Mwang'ombe, a neurosurgeon, and ward nurses Ms. Mariam Mbela, Ms. Rita Akinyi and Mr. Gideon Mwangi were interviewed on 16th March, 2018.

163. The Committee heard from Ms. Akinyi that she was the receiving nurse on 19th February, 2018 during the shift of 7.30 am to 5.30 pm. Patient John Nderitu was brought to the ward by a porter around 2.30 pm accompanied by two relatives. She then went through the patient file and attempted to engage the patient who was unresponsive until called the third time.

164. She admitted Mr. Nderitu, labelled him on the chest and filled the patient check list. It was at this time that theatre called for the patient and sent a porter to collect him. She then handed over the file and patient to Ms. Mariam Mbela, her colleague to take it from there.

165. Ms. Mbela submitted that the theatre porter came and wheeled the patient into the trauma theatre. At the entrance of the theatre she asked the two relatives to remain behind as they were not allowed into the theatre. She then went for blood at the blood transfusion unit (BTU) and found that it wasn't ready.

166. She returned the patient to the ward 5A and settled him in the middle of the room. His labelling was still on. A Dr. Mokua then took blood samples from Mr. Nderitu and sent it to BTU.

167. At 5.30 pm, Ms. Akinyi whose shift was ending handed over 61 reports to Mr. Gideon Mwangi. The rest of the team of nurses in the evening shift had not arrived. Mr. Nderitu was among those handed over. Ms. Akinyi asked Mr. Mwangi to follow up on Nderitu's blood.

168. Mr. Mwangi said that when the handover was almost done, Ms. Mary Wahome, his colleague arrived. Ms. Wahome asked if there were any special reports for theatre, of

which Mr. Mwangi gave her three, including that of Nderitu. In fact, all these patients were in Ms. Wahome's shift the previous evening except that of Mr. Nderitu.

169. Mr. Mwangi informed Ms. Wahome on Nderitu's blood situation after which Ms. Wahome went to the wards with the nursing registers and called out patient names. They noticed one patient was missing and they reported to security as an abscondee.

170. Later on in the night, theatre called Mr. Mwangi to ask if they had sent the right patient. He asked Wahome who affirmed that Nderitu was in theatre.

171. At 6.30 am, Ms. Mbela arrived for her day's shift. Because she remembered the lack of blood the previous evening, she was interested to know if the patient in the middle of the ward, Mr. Nderitu, had finally been operated on. It was at this moment that Ms. Wahome realized she had wheeled in the wrong patient.

172. The three nurses noted that patients not for surgery usually did not have labels. Ms. Wahome, who was diabetic and was recovering from a road accident herself, must have not remembered this and simply called out the patient, a wrong one (Mr. Samuel Kimani) responded and she proceeded to tag him and wheel him into theatre.

173. They added that they faced massive challenges at work including threats from patients, a high nurse to patient ratio, inadequate linen, patient gowns and equipment like beds. They also performed non-nursing functions including billing on discharge, customer service and responding to patient and relatives' enquiries. They were also forced to personally go for blood at the BTU.

174. They had not come into contact with management or the board in their 2-5 year careers and had not undergone any trainings save for inductions at employment. The SOP manual was filed at the nurse station.

175. Prof. Mwang'ombe submitted that on 20th February, 2018 at 7am, they had a departmental meeting to receive usual briefs. It was here that he was informed of difficult cases the previous night including one of a wrong patient operated on.

176. He went to review the wrong patient operated on, Mr. Samuel Kimani who at this time still had the wrong label of John Nderitu. He reviewed the patient and discussed with nurses. The patient was recovering well and he concluded he would fully recover with conservative management.

177. He also reviewed the real John Nderitu and found that his Glasgow Coma scale had improved and would no longer require surgical intervention. He therefore revised his management to conservative management as well.

178. The surgeons then held a meeting to review the mishap. Prof. was briefed on the chronology of events, and he advised his juniors to make copies of the files and take photos of the patients. This act came in handy when he later heard that the patient files had mysteriously disappeared. They were to reappear later, probably because whoever was involved realized copies were available.

179. Prof. Mwang'ombe then received a call from Dr. Etau, the acting Director Clinical Services in the absence of Dr. Githae who was in Mombasa at the time. He gave a briefing of what had happened.

180. Professor added that this mishap was bound to happen sooner or later because of weak systems at the hospital. He told the Committee that a study at the hospital found that implementation of the WHO checklist was a paltry 19%.

2.2.9 The Medical Practitioners and Dentists Board

181. The board's CEO, Mr. Daniel Yumbya, appeared before the Committee accompanied by board member, Dr. Elly Nyaim Opot on 19th March 2018 and submitted the report of the outcome of investigations by the board. The report found the following with specific findings and recommendations;

182. The competency of the Dr. Hudson Ng'ang'a Kamau, who undertook the surgery of the patient while being assisted by Dr. Mose Moraa, could not be questioned as his team reviewed the documents presented to them in theatre appropriately and thereafter undertook the proper procedure that would have been expected in a proper scenario.

183. The capability of one nurse, Mary Wahome, to work in specific units of the hospital needs to be considered by the body that licenses and regulates her, the Nursing Council of Kenya, as she testified that she had been unwell for several months after being involved in an accident, and had not recovered fully. During the inquiry she

requested to be allowed to give her evidence while seated stating that she was not able to stand for a long period of time.

184. The Committee finds that the appropriate regulator should consider whether the said nurse is fit to practice under such an environment.

185. Kenyatta National Hospital had Standard Operating Procedures for the various processes but there was a challenge on their implementation, monitoring and evaluation.

186. The Medical Advisory Committee of the Hospital existed only on paper as it was dormant

187. There are glaring gaps on the admission process at the Kenyatta National Hospital. It was noted that the neurosurgery patients were spread in different wards within the facility and as a consequence there is a potential risk to proper management and follow-up of the patients.

188. There was a challenge on the chain of command and communication between the Hospital and the University of Nairobi, School of Medicine.

189. A review of the patients' files submitted to the Board and noted that there was poor documentation by different cadres involved in the management of the patient. The nurse's cardex had poor records and missed the times when certain interventions were undertaken.

190. At the material time Kenyatta National Hospital appears to have had challenges in the supply of resources including patients' identification materials for the user Departments. As a consequence thereof the nurses had at the material time improvised and were using strappings which may have contributed to the mix up of patients.

191. In view of the above findings the Committee holds that a surgical procedure was done on a wrong patient as a result of systemic lapses at the Kenyatta National Hospital thus affecting the functioning of the different professional cadres who were working at Hospital at the material time.

192. Committee made the following orders;

(i) The Medical Practitioners and Dentists Board do constitute a Professional Conduct Committee under the provisions of Rule 4 A of the Medical Practitioners and Dentists (Disciplinary Proceedings) (Procedure) Rules within the next three (3) days to undertake an inquiry on the role played by Kenyatta National Hospital and the doctors involved in the treatment and management of the two patients, John Mbugua Nderitu and Samuel Kimani Wachira.

(ii) The Professional Conduct Committee to be constituted under (1) above, shall convene its sitting in Nairobi within the next Fourteen (14) days.

(iii) The Medical Practitioners and Dentists Board shall forward a copy of this decision to the Nursing Council of Kenya within the next three (3) days to enable the said Council initiate an inquiry under Section 18B of the Nurses Act on the role played by nurses in the treatment and management of the two patients, John Mbugua Nderitu and Samuel Kimani Wachira, leading to the mix up and the mistaken surgery. The said inquiry shall be commenced within the next fourteen (14) days and the Council shall take appropriate action under the circumstances of the case.

(iv) The Medical Practitioners and Dentists Board shall forward a copy of this decision to the Clinical Officers Council of Kenya within the next three (3) days to enable the said Council initiate an inquiry on the role played by Clinical Officers in the treatment and management of the two patients, John Mbugua Nderitu and Samuel Kimani Wachira, leading to the mix up and the mistaken surgery. The said inquiry shall be commenced within the next fourteen (14) days and the Council shall take appropriate action under the circumstances of the case.

2.2.10 Written submissions

193. The Committee received two written submissions from concerned members of the public who heeded the Committee's public call for any information. They were the following;

Ms. Wambui Muya

194. Ms. Wambui Muya wrote an email to the Committee on 7th March, 2018, from Canada and submitted the following;

195. She was a registered nurse in Ontario, Canada and she felt patient safety was a shared responsibility of all health care team members. This was crucial in preventing such mishaps as was experienced at KNH.

196. Her practice and research had exposed her to a 'systems approach' to prevent or at least reduce frequency surgical errors. This approach involves all the team members and is led by the primary surgeon and involves communication between the team and the patient during the preoperative assessment of the patient.

197. This process is facilitated by a predetermined checklist rechecked by the entire surgical team before surgery. An introduction of everyone present in the operating room is essential.

198. As far as is possible, the patient, or his/her designee should be involved in the process of identifying the correct surgical site, both during the informed consent process and in the physical act of marking the intended surgical site in the preoperative area.

199. A process of 'time out' involving final confirmation of the correct patient and surgical site, plus review of medical history, allergies, administration of appropriate preoperative antibiotics and deep vein thrombosis prophylaxis, may be helpful.

Better Kenya Team

200. Mr. Peter Mugo Mokua on behalf of his colleagues under the banner 'Better Kenya Team' submitted the groups views vide a letter dated 9th March 2018. The team

congratulated and saluted the committee on health for boldly launching the inquiry, and for inviting public feedback.

201. Their views were that the surgical mix-up was or may have been occasioned among others by:

i. Lapse in the control and feedback system;

ii. Congestion and crowding in the wards;

iii. Inadequate treatment infrastructure;

iv. Exhaustion, motivation and health aspect of KNH staff themselves.

202. They proposed the following measures to sort, solve and prevent such issues at this very critical national facility.

i. Computerizing doctor's treatment process for better, efficient, faster, easier management and follow-up. The doctors will be keying information on the computer as they interview the patient. This will enable flawless tracking of patient treatment;

ii. All patients to have (probably instead of name tags) smart cards with all the patient's details complete with photo. This way it will be impossible to switch patients. It will also improve efficiency in patient management;

iii. Make Kenyatta National Hospital strictly referral .A patient must have a referral letter from a hospital of the next lower level;

iv. Establish Kenyatta General Hospital adjacent to KNH to where patients other than referral ones will be directed.

v. Decongest the hospital by (a) reducing road accidents (ref. our petition bill on amendment to traffic act 2012 already in Parliament) (b) By actualizing 3&4 above(c) establishing alternative facility for patients whose Medicare/treatment according to doctors opinion e.g. cancer patients will take longer than say 6 months .This will free more space.

vi. Have specially trained staff doctors, nurses and support staff with special certification to deal with referral cases

vii. Make KNH absolutely free treatment facility being our national Hospital.

viii. Establish SMART (Specific Measureable Achievable Realistic Timely) awards scheme for the staff as a motivation tool.

ix. Carry out A-Z patients test and examination before commencing treatment akin to what happens at Apollo Hospitals India. This way they will thoroughly establish the patient's ailment and have a multipronged treatment program.

x. Improve staff welfare;

- convert KNH staff clinic into KNH staff medical Centre for better, efficient, comprehensive medicare for these very crucial national facility staff;
- ensure staff are housed as close to the facility as possible including building more housing to minimize staff exhaustion .This will enable staff work hours to be limited to max 8 per day because it will possible to have more shifts than struggling with 14 hour night shift probably for fear of staff security when they leave duty mid night;
- Introduce internal customer service systems and programs so that inter - staff relationship are boosted and always be at its best.

203. Information dissemination system where KNH and all the other stakeholders are well updated on regular basis so that challenges are arrested and mitigated on time

PART III

3.0 OBSERVATIONS OF THE COMMITTEE

204. The Committee examined the KNH referral practice, conducted a situational analysis at the hospital, received witness accounts on the specific cases of rape, breakdown of equipment and surgical mix-up, and observed the following;

3.1 Leadership and management at KNH

205. There exists a culture of reaction and unresponsiveness rather than proactiveness, characterizing the hospital. Indeed, the Cabinet Secretary submitted that her presence at the hospital on the 2nd of March, 2018 was to jolt a board that did not respond to public emotion to action.

206. The systemic failures witnessed at the hospital are partly a result of non-compliance with laid down guidelines and standard operating procedures. The KMPDB noted with concern that top management at the institution provided contradictory responses to matters of implementation, monitoring and evaluation of the SOPs. Further, the Medical Advisory Committee that is crucial in ensuring clinical services, procedures or interventions are provided by competent health care professionals in an appropriate and timely manner was dormant. The chain of events eliciting public outcry were not adequately addressed, with the hospital in constant firefighting mode. Past cases of transgressions at the hospital, for example a patient who was stabbed and bludgeoned to death a few years back, were not addressed to conclusion, neither are these cases used as lessons for the future. Some supplies like tagging labels for patients were reported to be lying in stores while patients were unlabeled, a clear case of breakdown of medical and administrative compliance to systems.

207. The board and top level management lacked clear communication channels with junior staff, patients and members of the public.

3.2 Allegations of sexual harassment

208. An interim report reviewed by the Committee revealed that there had been neither a formal complaint nor statement. During its visit to the hospital, patients interviewed complained of a general lack of privacy due to overstretched facilities, and a general sense of fear from the scary reports.

209. The mothers complained of the distance they had to walk to breastfeed, every three hours, coinciding with the time mortuary attendants ferried bodies.

210. The Committee finds that the hospital did not handle the matter well, leaving the public to feed on unsubstantiated rumours.

211. The hospital had written to the DCI to conduct investigations and had not received a response. The Committee finds that the DCI is slow in its investigations as it had itself written to the DCI on 1st March, 2018 vide a letter ref. NA/DCS/DC.H/2018/20 requesting for expeditious investigations and a report to be submitted to it for purposes of this report. No response had been received as at time of writing this report.

3.3 Security arrangements at the hospital

212. The hospital's general security is unsatisfactory. Members of the public walk in and out of the facility unfettered, visiting hours and numbers of visitors per patient is not strictly enforced.

213. CCTV installations are inadequate, and do not cover critical areas of the hospital which in some instances have poor lighting.

214. The hospital shares its compound with other government institutions and therefore lacks total control of the ground security.

215. Security personnel at the hospital are inadequate.

3.4 Status of medical equipment at the hospital

216. The hospital has no functioning MRI scan since the only one available has since been rendered obsolete and procurement of its replacement is incomplete as a result of slow procurement process.

217. Patients at KNH have not been getting services of MRI scan machine for over a year.

218. It has become impossible for doctors at the hospital to conduct scans hence the patients are being referred to private hospitals where the costs are high.

219. The hospital also has one Laparoscopy Tower machine in theatre 6. This is after operating without one for more than 6 months. The procurement process of two more machines has been slow.

220. The hospital has no skin grafting machine as that donated by well-wishers has since broken down. Doctors have resorted to manual means.

221. The hospital's plant and equipment replacement plan notes that 45% of its equipment and machinery is obsolete.

222. Provision of medical services at KNH is severely hampered by lack of crucial equipment. The heart lung machine is not working and the KNH depends on a borrowed one.

3.5 Mix-up of surgical patients

223. The mix-up was a result of failed systems including lack of labeling patients on admission and patients transiting to admission wards unaccompanied by medical personnel. Patients are not tagged or labelled on entry, making the mistakes highly likely to happen.

224. The mix-up was as a result of labelling of a wrong patient. The labelling was done at the ward level rather than on admission. Moreover, this tagging is only done for theatre patients and the Committee notes with concern that this is not even a requirement in the nursing SOPs.

225. Ms. Mary Wahome erroneously labelled the wrong patient, as she admitted calling out the patient by name, tagging him after he had erroneously grunted in response, and wheeled him to the theatre.

226. The patient John Nderitu was initially taken to the theatre and returned to the ward after discovery that blood for transfusion was not ready. Further, during the operation, the anesthetist did not sign the consent form and doctor's notes were lacking.

227. The confusion was aided by the fact that the operating doctors had no prior communication or contact with the patient, as those who assessed him and recommended surgery were not the ones who eventually conducted the operation.

228. Handover of patients at the hospital is haphazard and is not done physically, from one patient to the other. This gives room to confusion and probable mix up. Moreover, patients requiring different interventions are kept in the same ward. Nurse Wahome did not attend the handover on the day of the mix up.

229. Mr. John Nderitu was reported to be recovering well after the varying of his treatment to non-surgical conservative management. However, during his appearance, he looked weak and had not recollected his full memory.

3.6 Human resource contingent

230. A job evaluation exercise done at the hospital in 2015 revealed that the hospital had a shortage of 172 doctors, 808 nurses, 62 security personnel and another 414 staff engaged in other sections of the hospital indicating a total shortage of 1456 staff.

231. Nursing personnel at the hospital are extremely overstretched with the WHO recommended ratio of nurse to patient of 1:5 not attained. The reality is much worse peaking at 1:30 at times. Further, these nurses are overwhelmed with other auxiliary tasks including billing of customers, customer service and handling of general enquiries. This can lead to subordinate staff performing specialized functions.

232. The hospital heavily relies on student registrars to provide services to patients due to a lack of its own staff. The arrangement with the UoN means KNH lacks total control of these registrars; since they can withdraw services at any time.

233. The registrars engaged by the hospital are not paid, despite dedicating up to 70% of their time to actual working. This obviously leads to disgruntlement and probable poor service.

234. Constrained by inadequate personnel, shifts at the hospital are very long. Nurses on night duty work for more than 12 hours with less than 6 hours to go home, rest and resume shifts. Doctors on the other hand reported to conducting surgeries more than 24 hours nonstop at any given time. Quality of services offered in such circumstances are bound to deteriorate.

235. Incessant industrial action in the country's health sector has greatly hampered service provision. At lower levels of the country's health facilities, it leads to a surge in patient numbers to KNH, and at the hospital itself, compounds the already outstretched services.

3.7 Financial status of the hospital

236. KNH budget allocation has been on an upward trend albeit marginally. For instance in the last four (4) years, the budget allocation had increased from Kshs 8.64 billion in 2014/15 to Kshs 9.1 billion in the current financial year 2017/18. This represents a marginal increase of 5.8% in the last four years.

Resource Allocation to KNH (Kshs Mlns)			
FY	**Budget Allocation**	**Resource Requirement**	**Deviation**
2017/18	9,108	16,599	(7,491)
2016/17	9,127	15,204	(6,077)
2015/16	8,751	10,447	(1,696)
2014/15	8,642	9,327	(685)

Source: MOH

237. The budget allocation to KNH has been way below the resource requirement by this Institution. These budgetary challenges to some extent explains and contributes to the deplorable state of some of the critical medical equipment and medical facilities as well as human resource inadequacies in this national referral institution. This has the negative effect of making the hospital operate below optimal levels and offer services which are below standards required for a referral facility.

238. KNH has high incidences of pending bills involving varying amounts accrued in various financial years. Pending bills are largely attributed to late or lack of exchequer releases by the government. The Committee is concerned that pending bills are an obstacle towards full and effective budget implementation in this Institution which ultimately has a negative effect on delivery of service.

239. The hospital resources are strained as a result of medical bills waiver which is sometimes extended to patients who are unable to settle their medical bills due to financial challenges. Further, the hospital finds it difficult to recover the arrears from patients who have been discharged from the hospital due to lack of a policy to guide such grant of medical waivers.

240. There is a possibility of leakages of various user fees charged to patients as a result of a weak billing system which is largely undertaken manually. Further, health personnel such as the nurses are involved in billing and receipting patient's medical bills which is not part of their responsibilities and this exacerbates the revenue leakages.

3.8 Referral practice at the KNH, and in the country

241. The referral strategy of the hospital, and good practices noted elsewhere, are not followed. The KNH has slowly morphed into a first access non-specialized hospital where patients walk in with all manner of ailments.

242. This situation is a result of failed lower level hospitals managed and run by counties. The committee found that the neighbouring counties of Kajiado, Machakos and Kiambu, including Nairobi were the source of the overburdening and overstretching of facilities at the KNH.

3.9 Other cases of professional misconduct and medical negligence

243. The KMPDB reported that between 2003 - 2018, 27 cases specific to the KNH had been handled by the Board with varying outcomes.

4.0 RECOMMENDATIONS

244. The Committee makes the following considered recommendations that will streamline operations at the Kenyatta National Hospital;

4.1 Management at the hospital

245. In recognition of the Board's failure to carry out its functions in the national interest, the appointing authority in accordance with Section 7(3) of the State Corporations Act, Cap 446, constitutes a new Board.

246. The new board appraises the top level management with a view to placing the right personnel with the right qualifications in these positions.

247. The hospital should employ proper patient support services and customer service. Alongside this, KNH should device proper communication and information systems.

4.2 Alleged sexual harassment

248. The DCI should expeditiously complete its investigations and submit its report to the National Assembly within 14 days of adoption of this report by the House. Also to be submitted within the stipulated time is its report on the patient who was stabbed and bludgeoned to death at the hospital a few years back.

4.3 General security arrangements at the hospital

249. The hospital should engage an expert in security management and review the security arrangements within the hospital.

250. The Inspector General of Police should take charge of security in the compound hosting the hospital and other public institutions within the precincts.

251. The hospital should strictly enforce a fixed number of visitors per patient and adhere to visiting hours. This should be done with an automated patient and visitor information management system.

252. All sections of the hospital should be properly lighted, and all crucial areas covered by CCTV surveillance.

253. The hospital should as a matter of urgency engage with the National Youth Service to provide additional security within the hospital to augment existing security measures at the facility.

4.4 Medical equipment at the hospital

254. The hospital, the Ministry and the National Treasury should undertake a comprehensive costing of all the medical equipment that the hospital requires to guide resource allocation for purchase of the medical equipment which the institution is lacking.

4.5 Surgical mix-up and professional misconduct

255. The Ministry of Health should:

a) compensate Mr. Samuel Kimani Wachira for the risk he was exposed to, trauma and permanent deformity caused by the surgical mix-up, and Mr. John Nderitu Mbugua for the delayed surgery that exposed him to fatality likely to result from the blood clot; and

b) institute remedial action on the two patients with a view to ensuring their full recovery.

256. The hospital should take full responsibility for the full recovery of the two patients. Further reviews should be conducted on the patients with the possibility of a second opinion explored.

257. The recommendations of the report by the KMPDB on this matter be expeditiously implemented including but not limited to;

- The Nursing Council of Kenya should immediately review the conduct and practice of nurses involved in the case;
- The Clinical Officers Council of Kenya should immediately review the conduct and practice of clinical officers involved in the case.

258. All medical regulatory bodies including the KMPDB, Nursing Council of Kenya, Clinical Officers Council of Kenya and the Pharmacy and Poisons Board, should immediately review their Standard Operating Procedures and align them to emergent good practices in the world.

259. Regulatory bodies should meet punitive measures on any health personnel reported and proved to have mishandled any patient in this and any other cases.

4.6 Referral and health systems in general

260. The hospital should strictly enforce the referral strategy, and ensure proper referral documentation on admission.

261. The hospital should digitize its systems to ensure adherence to standards and avoid lapses and minimize human error.

262. The Ministry of Health in conjunction with county governments should spearhead efforts to improve service delivery by lower level hospitals run by county governments. This will reduce the influx of patients to referral hospitals.

263. The Ministry of Health should expeditiously roll out full operationalization of the Health Act 2017, which has solutions to many of the problems plaguing the health sector. Further, with almost a quarter of patients admitted in KNH being trauma patients as a result of road accidents, there is need for the country to consciously develop road safety guidelines with a view of enhancing safety in our public transportation system

4.7 Financials and Human Resource

264. The government should adequately support KNH in terms of resource allocation considering the critical role this referral facility play in provision of referral and curative services in the Country.

265. The Kenyatta National Hospital and all the referral facilities in the country should invest and put in place robust financial monitoring systems to ensure that fees

collected in the course of offering various services are well captured and accounted for.

266. The hospital should strengthen existing partnerships and creating new linkages with development partners to support the institution. This will supplement the resources allocated to KNH by the government to support delivery of service to the public.

267. The Ministry of Health should commission an audit of all pending bills accrued at KNH as well as develop a clear roadmap on settling the genuine pending bills to improve on service delivery at the Institution.

268. Further, the KNH and the Ministry of Health should pro-actively develop their budget and cash flow plans in the course of the financial year to ensure that resources are released on time to ensure full implementation of their budgetary allocations.

269. KNH, the Ministry of Health and Treasury should immediately recruit doctors, nurses, clinical officers, pharmacists/ pharmaceutical technologists, paramedics, billing clerks and other medical and non-medical staff to address the shortfall witnessed at the hospital.

270. The hospital should avail enough non-medical supplies including linen, uniforms and proper visible staff name tags.

271. The Ministry of Health should devise a way of ring fencing health funds reimbursed to counties by NHIF to be strictly used for health purposes.

272. The hospital in collaboration with the Ministry of Health should develop policy guidelines on handling of medical bills waivers for indigent patients to cushion the Institution against revenue leakages which arise from such waivers.

273. The Committee will engage the hospital and ministry in policy discussions on the engagement of registrars, and in general the arrangement between the hospital and UON.

274. Further, the Committee will hold policy discussions with the Ministry, Treasury and other stakeholders on policy discussions to fully implement Universal Health Coverage.

Minutes

Annex 2

ANNEX 2

KENYATTA NATIONAL HOSPITAL
P.O. BOX 20723, 00202 Nairobi

Tel.: 2726300/2726450/2726550
Fax: 2725272
Email: knhadmin@knh.or.ke

Ref: **KNH/SMC/ADM/43**

Date: **26th June, 2018**

Mr. Peter K. Tum, OGW
Principal Secretary
Ministry of Health
P.O. Box 30016-00100
NAIROBI

Dear Sir,

RE: TENDER NO. KNH/T/101/2017-2018
PROVISION OF SECURITY SERVICES (GUARDING)

Forwarded herewith, please find a report on Procurement of the above mentioned services required by the National Assembly Department Committee on Health.

Yours Sincerely

Dr. Thomas Mutie
Ag. CHIEF EXECUTIVE OFFICER

Encl.

MINISTRY OF HEALTH
RECEIVED
27 JUN 2018
ADMINISTRATION
P.O. Box 30016 - 00100, NAIROBI

REPORT ON PROCUREMENT OF PROVISION OF SECURITY SERVICES (GUARDING) - TENDER NO. TENDER NO. KNH/T/101/2017-2018

In order to enhance security presence in the Hospital, the Hospital advertised through open National tender for provision of security services in My.Gov and IFMIS portal. Prospective bidders were required to mandatory undertake a site visit on 13th and 14th February 2018. Bidders who did not conduct a sit survey were considered as non-responsive. All bidders who attended the site visit were issued with certificates of site survey. The tender closed and opened on 21st February 2018 at 10.00am.

In line with the provisions of Section 78 of the Public Procurement Asset Disposal Act (PPADA), 2015 the Chief Executive Officer appointed two (2) Committees - Tender Opening Committee and Tender Evaluation Committee, each with clearly spelt out Terms of Reference.

The tender attracted twenty-four (24) firms as indicated below:

BIDDER NO.	NAME
1	Gratom Babz Service Limited
2	Desert Security Services Limited
3	Pinkerton's Kenya Limited
4	Casa Security Limited
5	Hatari Security Limited
6	G4S
7	Ismax Security Limited
8	Babs Security Services Limited
9	Vickers Security
10	Papaton Security Limited
11	Race Guard Limited
12	Lavington Security Limited
13	Total Security Surveillance Limited
14	Bedrock Security Services Limited
15	Gyto Success Company Limited
16	Kleen Homes Security Services Limited
17	Patriotic Group of Companies Limited
18	Inter Security Services Limited
19	Citadelle Security
20	Reliance Protection Services Limited
21	SGA Security
22	Apex Security Limited
23	Pada & Alarm Systems
24	Guardforce Group Limited

The Tender Evaluation Committee evaluated the tender and of the twenty-four (24) bidders, twenty-two (22) bids failed the preliminary evaluation stage. The two (2) bidders that passed the preliminary stage were

Bidder No.	Name	Total Cost (Kes.)/Per Month	Remarks
12	Lavington Security Limited	2,623.000.00	1st Lowest evaluated bidder
14	Bedrock Security Services Limited	3,502,620.00	2nd Lowest evaluated bidder

Both bidders passed the technical evaluation stage and the financial evaluation was done as indicated in the table above. Pursuant to Section 84 of the PPADA, 2015, the Head of Procurement issued a professional opinion recommending the tenderer with lowest evaluated bid as stipulated under Section 86 of the PPADA, 2015 be awarded the tender.

The Chief Executive Officer approved the award to Lavington Security Limited. The successful bidder was notified of the award vide Notification of award letter dated 9th March 2018. Further, all the unsuccessful bidders were each issued with notification of regret letters dated 9th March 2018.

The Contract for the provision of 122 security services guards were signed between the Kenyatta National Hospital Board and Lavington Security Limited on 12th June 2018 for a period of one (1) year effective 1st April 2018 (herein past).

Dr. Thomas M. Mutie
Ag. CHIEF EXECUTIVE OFFICER

ANNEX 3

REPUBLIC OF KENYA

Tel: + 254 020 2724994/ 2711478/ 2728752
Fax: + 254 020 2724938
Email Address:info@kenyamedicalboard.org
Email Address: ceo@kenyamedicalboard.org
Website: www.medicalboard.co.ke
When replying please quote

MEDICAL PRACTITIONERS
AND DENTISTS BOARD
MP & DB HOUSE,
WOODLANDS RD, OFF LENANA RD.
P.O BOX 44839 - 00100
NAIROBI

IMPLEMENTATION STATUS OF THE REPORT OF THE DEPARTMENTAL COMMITTEE ON HEALTH ON THE ALLEGED SEXUAL ASSAULT, BREAKDOWN OF EQUIPMENT, SURGICAL MIX-UP AND GENERAL OPERATIONS OF KENYATTA NATIONAL HOSPITAL

A. INTRODUCTION & BACKGROUND

Reference is made to the submissions made by the Board on the matter of the surgical mix-up to the Departmental Committee on Health during its sitting held on 19th March, 2018 and the Committee's report dated March, 2018.

The Committee having heard the submissions of the Board and scrutinized the Preliminary Inquiry Committee report dated 16th March, 2018 gave its recommendations to the regulatory bodies as contained in page 61 and in particular paragraphs 257, 258 and 259. Of note, at paragraph 257 the Committee directed that;

"The Recommendations of the report of the Kenya Medical Practitioners and Dentists Board (KMPDB) on this matter be expeditiously implemented".

The report of the Preliminary Inquiry Committee referred to above directed among others that:

(i) The Medical Practitioners and Dentists Board do constitute a Professional Conduct Committee under the provisions of the Medical

Practitioners and Dentists (Disciplinary Proceedings) (Procedure) Rules within the next three days to undertake an inquiry on the role played by Kenyatta National Hospital and the doctors involved in the treatment and management of the two patients, John Mbugua Nderitu and Samuel Kimani Wachira.

(ii) The Professional Conduct Committee be constituted under (i) above, shall convene its sitting in Nairobi within the next fourteen (14) days.

(iii) The Medical Practitioners and Dentists Board shall forward a copy of this decision to the Nursing Council of Kenya within the next three (3) days to enable the said Council initiate an inquiry under Section 18B of the Nurses Act on the role played by nurses in the treatment and management of the two patients, John Mbugua Nderitu and Samuel Kimani Wachira, leading to the mix up and the mistaken surgery. The said inquiry shall be commenced within the next fourteen (14) days and the Council shall take appropriate action under the circumstances of the case.

(iv) The Medical Practitioners and Dentists Board shall forward a copy of this decision to the Clinical Officers Council of Kenya within the next three (3) days to enable the said Council initiate an inquiry on the role played by Clinical Officers in the treatment and management of the two patients, John Mbugua Nderitu and Samuel Kimani Wachira, leading to the mix up and the mistaken surgery. The said inquiry shall

be commenced within the next fourteen (14) days and the Council shall take appropriate action under the circumstances of the case.

(Copy of Preliminary Inquiry committee ruling attached as annex 1)

It is on this account that the Board submits this progress report on the implementation status of the recommendations of the Departmental Committee on Health.

B. IMPLEMENTATION STATUS OF THE PRELIMINARY INQUIRY COMMITTEE RULING DATED 16TH MARCH, 2018 AS ADOPTED BY THE DEPARTMENTAL COMMITTEE ON HEALTH

1. The Board in compliance with the recommendations (i) and (ii) of the Preliminary Inquiry Committee constituted a Professional Conduct Committee. The Professional Conduct Committee members were:

   (i) **Dr. Mubashir M. Qureshi**, Consultant Neurosurgeon, Aga Khan University Hospital- Chair

   (ii) **Dr. David L. Oluoch-Olunya,** Consultant Neurosurgeon The Nairobi Hospital;

   (iii) **Dr. Nilesh Kumar Mohan**, Consultant Neurosurgeon, Moi Teaching and Referral Hospital;

   (iv) **Dr. Elly Nyaim Opot**, Consultant General Surgeon, Senior Lecturer University of Nairobi, member Medical Practitioners and Dentists Board;

   (v) **Comm. Kagwiria Mbogori**, Chairperson Kenya National Commission of Human Rights;

   (vi) **Mr. Peter Munge**, the Board's Advocate and Legal Advisor; and

   (vii) **Mr. Daniel M. Yumbya**, Chief Executive Officer, Medical Practitioners and Dentists Board.

The Professional Conduct Committee held its inquiry on 5th and 6th April, 2018, in Nairobi at the Medical Practitioners and Dentists Board, Conference Centre on 3rd Floor, and delivered its ruling dated 10th April, 2018. **(*Copy of Professional Conduct Committee ruling attached as annex 2*)**

The Professional Conduct Committee made the following recommendations:

(i) Kenyatta National Hospital is directed to ensure continuous monitoring of the implementation of the patient identification Standard Operating Procedures.

(ii) Kenyatta National Hospital is hereby directed to take steps to hire additional nursing staff in order to improve the nurse-patients ratios and strive to comply with the World Health Organization staffing recommendations. Thereafter the Respondent shall update the Chairman of the Medical Practitioners and Dentists Board of the progress made after 90 days from the date of this decision.

(iii) The Committee further recommends that Kenyatta National Hospital do put in place a policy for continuous professional development and retention of nursing staff in tandem with the development of specialist clinical services.

(iv) Kenyatta National Hospital is directed to put in place measures to improve the supply chain management system at the Hospital

and also ensure they have a system for proper communication with the user Departments.

(v) Kenyatta National Hospital should initiate steps to have a separate dedicated unit for neuro-trauma patients within its facility to enhance the effectiveness in the treatment and monitoring of the patients.

(vi) Kenyatta National Hospital should put in place a Clinical Governance Structure that should include a functional MAC that meets regularly and complies with the international best practice. The Committee further recommends the reestablishment of Clinical Divisions which shall report to the MAC.

(vii) Pursuant to Legal Notice 109/1987, Kenya National Hospital Board Order, 1987, there exists a Memorandum of Understanding ("*MoU*") between Kenyatta National Hospital and the University of Nairobi, which details the specific responsibility of both institutions. However, the provisions of the said MoU were not being implemented and therefore the Committee directs that the MoU be reviewed in light of emerging changes in training, clinical services and research.

(viii) Kenyatta National Hospital is directed to liaise with the Nursing Council of Kenya to review and ensure adherence to Standard Operating Procedures relating to patients hand over.

(ix) The Office of the Director of Medical Services is directed to work in liaison with the County Governments to strengthen services, ensure an efficient referral system at the County Hospital and thus enable Kenyatta National Hospital to effectively function as a National Tertiary Referral Hospital.

(x) Kenyatta National Hospital should ensure that the duty rota clearly outlines the duties and responsibilities of the various doctors and assigns appropriate roles commensurate with the respective institutional staffing titles; which should be in keeping with the recognition and licensing from the Medical Practitioners and Dentists Board.

(xi) Kenyatta National Hospital do enter into mediation agreement with Samuel Kimani Wachira with a view of compensation and report to the Medical Practitioners and Dentists Board within sixty (60) days from the date hereof.

Recommendation number two (ii) and nine (ix) above gave specific timelines within which the Hospital should update the Board on any progress made towards its implementation. It is worth noting that a progress report in respect to

recommendation number (ii) above should be filed by Kenyatta National Hospital on or before 9th July, 2018.

In respect to recommendation number nine (ix) the Hospital should have filed a report to the Board by 11th June, 2018 when the 60 days expired. Kenyatta National Hospital has in its report indicated that they have constituted a Committee to spearhead the mediation process which is still ongoing+.

2. The Board in compliance with the recommendations three (iii) and four (iv) of the Preliminary Inquiry Committee forwarded copies of the decision to the Nursing Council or Kenya and the Clinical Officers Council vide letters dated 19th March, 2018.

3. The Board also forwarded the report of the Professional Conduct Committee to the Clerk of the National Assembly vide letter dated and 12th April, 2018 respectively. ***(Copy of letter attached as annex 3)***

Dated this 20th day of June, 2018

DANIEL M. YUMBYA
CHIEF EXECUTIVE OFFICER
MEDICAL PRACTITIONERS AND DENTISTS BOARD

ANNEX 3

REPUBLIC OF KENYA

THE MEDICAL PRACTITIONERS AND DENTISTS BOARD

INQUIRY BY THE

PROFESSIONAL CONDUCT COMMITTEE
(PURSUANT TO THE PROVISIONS OF THE MEDICAL PRACTITIONERS AND DENTISTS ACT, CHAPTER 253 OF THE LAWS OF KENYA AND THE RULES MADE THEREUNDER)

IN

PROFESSIONAL CONDUCT COMMITTEE CASE NO. 1 OF 2018

BETWEEN

AMOS KARIUKI WACHIRA
ON BEHALF OF SAMUEL KIMANI WACHIRA .....COMPLAINANT

-AND-

KENYATTA NATIONAL HOSPITAL.....RESPONDENT

RULING

A. NATURE OF THE COMPLAINT

1. The complaint leading to this inquiry was before the Preliminary Inquiry Committee, herein after referred to as "*the PIC*", of the Medical Practitioners and Dentists Board, hereinafter referred to as "**the Board**" in PIC Case No. 8 of 2018 having been commenced after various media reports and an article that was published on 2nd March, 2018 in the Daily Nation newspaper. The said reports alleged that neurosurgeons working at the Kenyatta National Hospital hereinafter referred to as "*the Hospital*", "*KNH*" or "*the Respondent*" had performed an operation on a wrong patient.

2. The PIC undertook an inquiry on the complaint and subsequently delivered the ruling dated 16th March 2018 wherein it directed, inter alia,

that the Board do constitute a Professional Conduct Committee under the Provisions of **Rule 4A** of the **Medical Practitioners and Dentists (Disciplinary Proceedings) (Procedure) Rules** within a period of three (3) days to undertake an inquiry on the role played by Kenyatta National Hospital and the doctors involved in the treatment and management of the two patients, John Mbugua Nderitu and Samuel Kimani Wachira.

3. By a letter dated 19th March 2018 the Board wrote to the Respondent notifying it of the hearing before the Professional Conduct Committee and also requested for the attendance of the medical personnel involved in the management of the subject patients.

4. The Board consequently constituted the Professional Conduct Committee pursuant to the provision of **Rule 4A** of the **Medical Practitioners and Dentists (Disciplinary Proceedings) (Procedure) Amendment Rules** and it consisted of the following members;

   (i) **Dr. Mubashir M. Qureshi,** Consultant Neurosurgeon, Aga Khan University Hospital- Chair

   (ii) **Dr. David L. Oluoch-Olunya,** Consultant Neurosurgeon The Nairobi Hospital;

   (iii) **Dr. Nilesh Kumar Mohan,** Consultant Neurosurgeon, Moi Teaching and Referral Hospital;

   (iv) **Dr. Elly Nyaim Opot,** Consultant General Surgeon, Senior Lecturer University of Nairobi, member Medical Practitioners and Dentists Board;

   (v) **Comm. Kagwiria Mbogori,** Chairperson Kenya National Commission of Human Rights;

   (vi) **Mr. Peter Munge,** the Board's Advocate and Legal Advisor; and

   (vii) **Mr. Daniel M. Yumbya,** Chief Executive Officer, Medical Practitioners and Dentists Board.

B. INQUIRY BY THE PROFESSIONAL CONDUCT COMMITTEE

5. On 5th April, 2018, the Committee held it's sitting at the offices of Medical Practitioners and Dentists Board located along Lenana Road within Nairobi County. The Complainant did not appear in person but he was represented by Learned Counsel, Mr. Wahome Thuku, whereas the Respondent was presented by its Corporation Secretary, Mr. Calvin Nyachoti. At the commencement of the inquiry, the Respondent's Counsel submitted that they had filed a bundle of documents that included witness statements and documents in response to the complaint.

6. The Respondent's counsel further raised an objection on the locus of the Claimant to lodge a complaint on behalf of the patient, Samuel Kimani Wachira. The Committee directed the Respondent to raise the issue during his final submissions to enable the Committee determine all issues together.

7. **Mr. Wahome Thuku**, the Learned Counsel for the complainant, commenced his presentation on behalf of the Complainant and in his opening statement he submitted that his client's complaint was supported by the Board's application for lodging a complaint, the Complainant's statement and the ruling delivered by the Preliminary Inquiry Committee on 16th March 2018. He stated that the patient, Samuel Kimani Wachira, was recovering in Nyeri and was thus unable to attend the inquiry in person. He further submitted that he was relying on the aforesaid documents.

8. **Ms Lily Koros Tare** was the first witness who she adopted her witness statement dated 4th April 2018. The witness stated that at the material time she was the Chief Executive Officer at KNH and that the issue of the surgery in issue was brought to her attention on 20th February 2018. It was her evidence that on 22nd February 2018 she convened a meeting with the acting Principal of the College of Health Science of the University of Nairobi and other representatives from the Hospital to discuss the incident. It was her evidence that during the said meeting it was resolved that administrative action be taken against the concerned officers.

9. The witness further testified that the Registrar who undertook the surgery was issued a seven (7) days show cause letter that was to take effect on 22nd February 2018 and he was also supposed to explain on what transpired in theatre. She also stated that the matter was to be referred to the Medical Advisory Committee ("MAC"), whose membership was from both the Hospital and the College of Health Science of the University of Nairobi, but she was sent on compulsory leave before the internal investigations were undertaken.

10. The witness further testified that on 1st March 2018 she was contacted by a journalist from NTV who was seeking information on a story that was to be aired within 30 minutes of the call but she requested for more time to enable her prepare her statement. She stated that she took time to prepare her statement and the story was then aired the following day, on 2nd March 2018.

11. Dr. Bernard Munene Githae ("Dr. Githae") was the second witness before the Committee and he was led in evidence by Mr. Nyachoti. The witness adopted his witness statement and stated that he has been the Director of Clinical Services at the Kenyatta National Hospital since 1st December 2015. He stated that he was away in Mombasa with the Hospital's Board of Management attending strategic planning meeting when the incident occurred. It was his evidence that he was informed on the incident on 22nd February 2018 through a report sent by Dr. Etau.

12. The witness further testified that the Hospital's CEO convened a meeting with the Ag. Principal of the College of Health Sciences of the University of Nairobi and other staff members when it was resolved that administrative action be taken against the concerned officers. He then directed Dr. Etau to suspend the admission rights for Dr. Hudson Ng'ang'a Kamau and to also issue him a show-cause letter for operating on the wrong patient. The witness further stated that he was himself placed on compulsory leave on 3rd March 2018 as a result of the incident.

13. On cross examination by the Committee, Dr. Githae testified that they decided to suspend the admission rights for the concerned Registrar and also interdict the other staff members so as to allow investigations on the incident. It was his evidence that interdiction of staff was not an indication of guilt as investigations were to be done before a final decision was made. He further testified that the interdicted staff were to get half-pay and in case they were cleared of any wrong doing they would be given their full pay. The witness stated that the nurses were interdicted as provided by the HR manual for KNH pending investigations. It was his

evidence that admission rights for the Registrars are guided by the MOU between the Hospital and the MOU.

14. Dr. Githae further stated that the Board of Management of KNH gives the Registrars admission rights but it was not done in writing. He also stated that they tried to get the admission rights made in writing but there was some resistance from the University.

15. The witness further stated that once patients are brought in at Hospital's casualty they are registered and given a casualty number. He however admitted that the patient, Samuel Wachira, was not tagged at casualty as would have been expected. He also admitted that both patients were not tagged. He clarified that there was no shortage of tags at the Hospital during the material period but it was his view that there was a breach of procedure by the Hospital's staff.

16. The Committee referred the witness to the SOPs provided by the Respondent and dated 16th March 2018 and he stated that they were a review of the older SOPs and they were prepared after the subject incident. It was his evidence that section 5.5 of the new SOPs provided that it was the responsibility of the nurse to ensure that the patient's file had all documents. He admitted that in the present case tagging was not done at the Hospital's A&E but it was later done in the ward though at some point to the wrong patients.

17. The witness further testified that after the subject incident they realised that patients at KNH were not being tagged at the A&E. He stated that the tags used by the Hospital are hand written and they do not have

within the Hospital tags that are digitally printed. He stated that currently the primary nurse at KNH who sees patients do write the information for tagging. He further testified that since the date of the incident in question all patients at the Hospital are tagged.

18. On re-examination the witness stated that KNH is ISO 9000/2008 certified. It was his evidence that at the material time there was no shortage of tagging material but they later discovered that there was no SOPs on tagging as at the time of the incident but the Hospital had corrected the situation by reviewing the existing SOPs.

19. The witness further testified that the first time the correct patient was taken to theatre but there was no blood. However the wrong patient was taken the second time but by a different nurse who was on the night shift. He stated that on average the A&E sees about 200 patients each day and that ratio of nurses-to-patient at the Hospital was inadequate.

20 Dr. **Nelson Okedi** *(Dr. OKedi)* was the third witness who appeared before the Committee and he adopted his written statement dated 7th March 2018. He further clarified that at the time of the incident he was a 2nd Year Orthopaedic Surgery Post-graduate Student rotating in the Department. It was his evidence that he got consent from the relatives of the patient known as John Nderitu and then reviewed the scans before discussing it with a colleague, Dr. Daniel Kayatta, who was a 5th Year Neurosurgical Registrar. He clarified that the discussions were done on phone and he also sent him the images on WhatsApp. The witness further testified that they agreed that the patient needed an evacuation of the haematoma.

He then prepared the theatre list and he was aware that Dr. Hudson Ng'ang'a would be the one operating on the patient.

21. On cross examination by the Committee the witness clarified that he sent the full series of the CT Scans and he was satisfied that the discussions on phone with Dr. Kanyatta with regards to the plan of management was good enough. It was his evidence that for a doctor to operate on a patient one should have seen the patient and have the relevant investigations including the CT Scans.

22. The witness further testified that the theatre list had information of the patient which included the date, the department, patients name, IP number, age, sex, date of admission, the diagnosis and the operation. He testified that he spoke to the patient, took the history and obtained consent for the procedure. He clarified that he did the said steps in the presence of the patient's relatives and the consent was signed by the patient's sister.

23. Dr. Okedi further testified that for patients who have sustained head injuries it takes less than 48 hours before they are admitted in the General Surgical Ward. It was his evidence that it is possible for one to finish the shift at KNH and then leave before another practitioner takes over.

24. On being re-examined by Counsel for the Hospital he stated that at the material time there was a duty rota in place and it was for the period between January and March, 2018. He further testified that on 18th and 19th February 2018 he covered the A & E and the 2nd on call was Dr. Kanyatta.

25. Dr. **Hudson Ng'ang'a Kamau**, *(Dr. Ng'ang'a)* was the fourth witness before the Committee. He adopted his written statement dated 6th March 2018 and testified that he is a fourth year junior neurosurgery resident at the Department of Surgery, School of Medicine, University of Nairobi. It was his evidence that at the material time there were 7 residents working in the neurosurgery unit at KNH and the duties are allocated through the duty rota. He stated that at the time of the incident there were 2 orthopaedic surgery residents, namely Dr. Okedi and Dr. Anthony Njue, and 1 general Surgery resident, Dr. Mose Moraa, who was rotating in the Department.

26. It was his evidence that the patient in this instance was confused and hence his details were confirmed through documents provided which included the patients file, CT Scans, and the tag. He stated that he and Dr. Moraa reviewed the patient before the operation and noted that he was confused with a Glasgow Coma Scale score of 13/15. The witness also stated that at that material time he was unaware that the patient had previously been brought to theatre and returned to the ward due to unavailability of blood. He stated that at 10.30 pm the blood available was for the patient, John Nderitu. He also testified that there are known risks for carrying out a craniotomy and he also confirmed that prior to going to theatre he consulted Dr. Magoha.

27. The witness further testified that when one is covering the trauma theatre there are no chances of examining the patient. He confirmed that he spoke to Dr. Okedi and requested for the scans. Before the operation he consulted Dr. Magoha and also informed Dr. Mangar, who was the

Second on call. He testified that on the material day he arrived at the Hospital at around 10.00 am, did a major ward round and thereafter went to trauma theatre.

28. Dr. Ng'ang'a further testified that from the Scans provided the haematoma was superficial and when he opened the dura and he could not find any haematoma and hence he stopped the procedure, reviewed the Scans again and also called the 2nd on call, Dr. Mangar.

29. **Dr. Mose Felister Moraa,** *(Dr. Moraa)* was the fifth witness who appeared before the Committee. She adopted her written statement dated 7th March, 2018 and stated that at the material time she was a 3rd year General Surgery Resident and was rotating in the Neurosurgical Unit. It was her evidence that on the material day there was a major ward round and she thereafter reported to trauma theatre. She was the assisting surgeon and before the operation they consulted Dr. Magoha and also informed the 2nd on call, Dr. Mangar, who was to be on standby in the event they needed his assistance. She stated that when the intraoperative findings did not tally with the CT Scans, they called Dr. Mangar, the 2nd on call, who joined them and confirmed the same. Dr. Magoha was also called and he also confirmed that the intraoperative findings did not tally with the CT Scan findings.

30. On cross examination by the Committee she stated that it was the Ward Nurse who called the Theatre Nurse and informed her that she had wheeled in the wrong patient to theatre.

31. **Dr. Thomas Mutie** *(Dr. Mutie)* was the sixth witness before the Committee and he was led in his evidence by Mr. Nyacholi. The witness adopted his statement dated 4th April, 2018 and stated that he is the Ag. Chief Executive Officer at the Kenyatta National Hospital. It was his evidence that after the event, the KNH Board of management met and appointed a special committee of the Board that was to investigate the incident and report on the events that led to the unintended surgical intervention. The Board further directed Hospital management to engage the services of a Consulting firm to conduct a systems audit within a period of one month so as to identify the lapses that allowed the occurrence of the incident and also make appropriate recommendations. It was his evidence that following the investigations, the Special Committee of the Board made recommendations which were adopted for implementation by the KNH Board of Management in a meeting held on 29th March, 2018.

32. The witness testified that the existing SOPs were reviewed and currently there an ongoing review of the referral systems. On staffing and Equipment, it was his evidence that the Hospital has made recommendations to the Ministry of Health. He stated that there is a Medical Advisory Committee (MAC) at KNH which was established as indicated in the document provided by the Hospital. He further testified that there has been a growing deficit in terms of the money allocated to the Hospital and the costs to effectively run the Hospital.

33. On being cross examined by the Committee it was his evidence that the membership of the MAC was reviewed in March, 2018. He stated that the

disciplinary committee of the Hospital handles matters of staff while the MAC advises the Hospital on Clinical matters.

34. It was his evidence that the clinical governance is under the office the Director of Clinical Services, where there is a Department of Standards, which handles matters of clinical governance, patient's safety and standards. He clarified that in this particular matter, the case was taken up by the Board due to its National interest. He further clarified that the University is represented in the Board and the MAC draws its membership from both institutions.

35. On re-examination, he confirmed that the there is adequate representation from the Hospital and the University. He testified that there is a Disciplinary Committee in every department, where the head of the department is the Chair. At the corporate level there is the staff Disciplinary Committee. He further testified that they have a Clinical Committee at the hospital which meets weekly. He also stated that on a monthly basis there is a meeting convened by the CEO and the Hospital which meets every three months. It was his evidence that there is a Quality Health Care Department which is headed by Dr. Lydia Okutoyi and it reports to the Director of Clinical Services.

36. **Dr. Dave Mangar** ("*Dr. Mangar*") was the seventh witness before the Committee and he adopted his written statement dated 7th March, 2018. He stated that he is a 4th year neurosurgery resident at the School of Medicine, University of Nairobi and the 2nd on call registrar. The witness stated that at around 10. 30 pm he was informed by Dr. Ng'ang'a that a

patient by the name John Nderitu would be operated on for an indication of intracerebral haematoma and he was requested to be on standby as the 2nd on call. It was his evidence that at around 2.30 am he received a call from Dr. Ng'ang'a requesting for assistance in the operating theatre. The witness further testified that he joined the Team and reviewed the Scans on the viewer and then asked the circulating nurse to confirm the identity of the patient from the ward. Thereafter the identity of the patient was confirmed and he joined the team to check the patient's positioning, the site of the operation and then confirmed that there was no haematoma. The witness further testified that he then called Dr. Magoha, the Junior Consultant on call, who also joined them in theatre shortly and proceeded to review the patient and when the haematoma could not be located a decision was made to stop the procedure.

37. The witness further testified that at around 6.00 am Dr. Ng'ang'a called and informed him that they had operated on the wrong patient.

38. Dr. **Michael Augustus Achianja Magoha**, *(Dr. Magoha)* was the eighth witness before the Committee and he adopted his written statement dated 6th March, 2018. The witness testified that he is a Junior Consultant Neurosurgeon at KNH and the 3rd on call on the material day. It was his evidence that he received a call from Dr. Mangar at approximately 3.30 am informing him that he and Dr. Ng'ang'a could not locate the haematoma. He then rushed to the Hospital and upon arriving at theatre, he reviewed the CT Scans and enquired whether the ward had been called and he was reassured that the ward had confirmed the patient's

identity. Intraoperatively, he confirmed that there was no haematoma and no signs of increased intra-cranial pressure.

39. On being cross examined by the Committee, the witness testified that he was called in to theatre by the 3rd on call and upon arrival he reviewed the scans, the identity of the patient and he also requested that the ward be called to confirm the identity of the patient. Once this was done, he reviewed the site of the operation, CT Scans and thereafter made the decision to stop the operation and close the wound.

40. **Prof. Nimrod Mwang'ombe** (Prof. Mwang'ombe) was the ninth witness before the Committee. The witness adopted his written statement dated 5th March, 2018 and his submissions to the Departmental Committee on Health as contained in their report of March, 2018 that was submitted to the Committee. The witness testified that on 20th February, 2018 at 7.00 am they had a Departmental meeting to receive briefs and it was there that he was informed on the difficult cases handled in the previous night including one of a wrong patient being operated on.

41. On being cross examined by the Committee, it was his evidence that he reviewed the patient, John Nderitu Mbugua, on 20th February, 2018 and he found the patient was stable, his Glasgow Coma Scale score had improved and by then he would no longer require surgical intervention. He then revised the patient's plan of treatment to conservative management. He testified that as per the rota, the first on call at A & E was a Registrar, who was undertaking training, and on this particular day

the 1st on call was Dr. Kunda but he had to take an emergency leave. Dr. Okedi was asked to cover the gap which was at A & E.

42. The witness further testified that the 1st on call is the doctor in A & E, the 2nd on call is the junior consultant and the 3rd on call is the Consultant. It was his evidence that the reason he prepares the rota is because he can identify the Registrars who are in various stages in training. He further testified that the rota is prepared in agreement with consultants from the Hospital.

43. Prof. Mwang'ombe further testified that the WHO checklist was developed to address issues of patient safety. He stated that according to a WHO study, it was noted that in developing countries, mortality, infections and post-operative complications were a serious concern. The WHO surgical safety checklist was therefore developed to set surgical safety standards that can be applied in all countries and health institution settings. The checklist identifies key elements which include patient's identification, site of surgery, check in and check out in theatre. The witness further stated that in an independent study was done on the implementation of the WHO checklist and it noted that the use WHO checklist at the KNH was at 19%.

44. **Dr. Peter Gichuru Mwangi,** *(Dr. Mwangi)* was the tenth witness before the Committee and he adopted his written statement and also stated that he is the Head of the Neurosurgical Unit at KNH and the Senior Consultant on call for the week the incident occurred. It was his evidence that he was involved in the matter after the patient, Samuel Kimani Wachira, had

already been operated on. He stated that the neurosurgical team reviewed both patients, John Nderitu and Samuel Wachira, and noted that the Glasgow Coma Scale score for John Nderitu had improved from 13/15 to 15/15 and a clinical decision was made to manage the patient conservatively. It was his further evidence that he reviewed the patient, Samuel Kimani Wachira, after he was discharged from the Hospital and at the time he had improved significantly.

45. The witness further testified that he is chair of the Neurosurgery Department at the Hospital. He stated that duties in the Department are allocated to both Hospital consultants and University Lecturers. He further stated that in the Department Dr. Samuel Njiru is in charge of legal and budgeting; Prof. Mwang'ombe is in charge of the post graduate training and also prepares the duty rota.

46. On being cross examined by the Committee the witness testified that he was not confident that the patient, John Mbugua Nderitu, required surgery. He stated that the patient would have benefited from intracranial pressure monitoring and conservative management however, he pointed out that the equipment for pressure monitoring are not available at KNH.

47. It was his evidence that it is the responsibility for any medical personnel working in the Hospital to have Professional Indemnity. It was his opinion that Registrars training in at the Hospital should also have professional indemnity.

48. Dr. **David Kanyatta Nduati** *(Dr. Kanyata)* was the eleventh witness before the Committee and he adopted his written statement dated 7th March, 2018. He stated that on the morning of 19th February, 2018, Dr. Okedi consulted him on the management of a man "*John Nderitu Mbugua*". It was his evidence that after viewing the images sent to him on WhatsApp, he advised that the patient would benefit from a craniotomy to evacuate the clot.

49. On being cross examined by the Committee the witness testified that he received the images on WhatsApp and he then advised on the management based on the said images. He further testified that he did not physically examine the patient nor did he consult a senior on the management of the patient.

50. Dr. **Peter Masinde** *(Dr. Masinde)* was the twelfth witness before the Committee and he was lead in his evidence by Mr. Nyachoti. The witness adopted his written statement dated 4th April, 2018 and stated that he is the Ag. Director Clinical Services of Kenyatta National Hospital, having been appointed to the position in the acting capacity by the KNH Board of management with effect from 3rd March, 2018.

51. It was his evidence that following investigations into the unintended surgical intervention, the Special Committee of the Board made recommendations which were adopted for implementation by the Hospital's Board of management in its meeting held on 29th March, 2018. The recommendations included the review of Standard Operating

Procedures, ensuring complete documentation on patient management, and referral systems among others.

52. Dr. Masinde further testified that the Hospital has since implemented recommendations by the Board which included the use or arm/wrist bands to identify all patients on admission, placement of checklists of human anatomy and pre-operative checklist in all in-patient files on admission; strict enforcement of all clinical SOPs and adherence to complete documentation on patient management monitored by the Patients Affairs Unit.

53. **Mr. Malachi Odhiambo Siwa,** *(Mr. Siwa)* was the thirteenth witness who appeared before the Committee and he adopted his written statement dated 12th March, 2018. The witness testified that he is a Clinical Officer anaesthetist. It was his evidence that a patient named John Mbugua Nderitu was received in trauma theatre in the afternoon of February 19th, 2018. The patient had been reviewed by the day duty anaesthetist, who in consultation with the surgeon, felt uncomfortable proceeding with the surgery without blood. A request for two pints of blood was made and the patient was returned to the ward to await surgery as soon as the blood could be available. The preoperative checklist had been duly filled by the day duty anaesthetist.

54. The witness testified that later in the night of 19th February a patient named John Mbugua Nderitu was brought to theatre from Ward 5 A. The name tallied in all the documents, including the CT Scans. It was his further evidence that the WHO surgical safety checklist was read and filled in the presence of other team members.

55. On being cross examined by the Committee, the witness testified that in this particular case, the patient had already been reviewed by his colleague and the pre-operative checklist filled. He stated that he did not see this particular patient and he had been informed that the patient did require blood.

56. The witness further testified that there are Senior Registrar Anaesthesiologists who also cover the unit and a Consultant on call. He confirmed that there was handing over belween himself and the anaesthetist on day shift. He confirmed further that the hand over that was done was verbal.

57. **Nurse Rita Linda Akinyi** *(Nurse Akinyi)* was the fourteenth witness who appeared before the Committee and she adopted her written statement dated 19th February, 2018. She stated that she is a Nursing Officer 2 working at the Hospital. It was her evidence that she received the patient, John Nderitu Mbugua, from Casualty for admission in the ward. At the time, he was accompanied by a relative and she identified him by calling his name and his identity was also confirmed by a relative. She further testified that the patient had not been labelled at the Accident and Emergency unit. It was her evidence that the patient was slightly confused but could respond to few verbal commands.

58. The witness testified that after admitting the patient, she labelled him using a strapping which she placed on the chest. It was her evidence that she handed over the patient to the primary nurse, Doris Mbela.

59. On being cross examined by the Committee the witness testified that she handed over the ward report to Nurse Gideon Mwangi and she clarified that hand over is usually done outside the room. The witness testified that each room should ideally hold 6 beds but due to patient numbers it had around 15 or more beds. She further testified that before handing over the nurse has to ensure that all the patients are in the bed.

60. The witness further testified that on the material day, she started the hand over from the first room and she read out all the patients in every room. It was her evidence that she pointed out the patients to Nurse Gideon Mwangi who included John Nderitu and Samuel Wachira. She testified that she handed over 61 patients in the ward. She further stated that during the day the nurses are usually 3 while the recommended ratio in surgery is 1 nurse to 4 patients. The witness further stated that at the time she was leaving at the end of her shift to the other shift nurses, two nurses who were to be on duty, Mary Wahome and Esther Muchiri, had arrived.

61. Nurse Akinyi testified that she admitted the patient, John Nderitu Mbugua, and she used a strapping to label him. It was her evidence that she first saw the wrist band after the incidence occurred. It was her evidence that some Departments within the Hospital use the identification bands. She stated that it is the responsibility of the team leader or her deputy to request for the identification bands.

62. On being cross examined by Counsel for the Hospital, she stated that the patient had the strapping on his chest when he was brought back from theatre. She explained that when there are more patients than the

capacity, some patients sleep on the floor with some using a mattress and others on the cold floor.

63. It was the evidence of Nurse Akinyi that she admitted the patient, John Nderitu Mbugua, prepared him for theatre and then handed him over to Nurse Mbela. After 30 or so minutes Nurse Mbela came back to the ward with the patient with information that the operation could not be done due to lack of blood. The witness further testified that at the time she was handing over the report to Nurse Mwangi, the relatives of the patient, John Nderitu Mbugua, were present in the ward and she informed them that the operation was not carried out. The witness also testified that there are many instances when patients remain in the ward after they have been discharged due to social financial issues.

64. **Nurse Doris Mbela** *(Nurse Mbela)* was the fifteenth witness who appeared before the Committee and she adopted her statement dated 21st February, 2018 and stated that she is a Nursing Officer II working at the Hospital. It was her evidence that the patient John Mbugua Nderitu was handed over to her by Nurse Akinyi. She confirmed that at the time of handing over, the patient was properly labelled. It was her further evidence that the room on that material day had approximately 10 patients. She testified that after she received the patient she wheeled him to theatre but she took him back to the ward because there was no blood. She stated that after she wheeled patient back to the ward, she settled him in the middle of the room.

65. On cross examination by Counsel for the Hospital she confirmed that John Nderitu still had a strapping on the gown with his name. She stated that the matron was in charge of requisitioning for name tags. She confirmed that she has previously used the identification tags.

66. On being cross examined by the Committee she stated that the identification bands were not available at the time and they improvised by using strapping. She further testified that at the Hospital labelling is usually done for confused patients, patients going to theatre and bodies of deceased persons. It was her evidence that the last time she used the tags was a couple of months ago.

67. On being cross examined by the Counsel for the complainant, the witness stated that the patient, Samuel Wachira, should have been labelled as he was confused. She confirmed that Samuel Wachira did not have a name tag on him.

68. **Nurse Gideon Mwaura Mwangi** *(Nurse Mwangi)* was the sixteenth witness who appeared before the Committee. He adopted his written statement dated 19th February, 2018 and stated that he is a Nursing Officer III working at the Hospital. It was his evidence that he received the hand over report from Nurse Rita Akinyi. He testified that he received patient by named John Mbugua Nderitu in male room 2 on behalf of his colleague, Mary Wahome, who was the primary nurse. He further testified that the patient has missed theatre during the day due to lack of blood for blood transfusion. He then handed over the report to the primary nurse.

69. On being cross examined by the Committee he stated that he received the hand over report for 61 patients. It was his evidence that Nurse Mary Wahome was the duty nurse for room 2 and he informed her that he had a patient in room 2 who had missed theatre due to lack of blood. He also testified that this hand over was done at room 6.

70. It was the evidence of Nurse Mwangi that Mary Wahome was the duty nurse for room 2 while he was the duty nurse for male room 3 and maxillofacial room. He further testified that the identification tags were not available at the Hospital at the material time. It was his evidence that orders for name tags were made weekly and a response of 'out of stock' was always being given and the last time he used the appropriate tags was in 2017 during the middle of that year. He testified that at KNH name tags are usually used for confused patients, bodies of deceased persons and patients going to theatre.

71. On being cross examined by Counsel for the Hospital, the witness stated that he received the patient on behalf of his colleague Nurse Mary Wahome because at that time the said nurse was not available.

72. **Nurse Mary Wahome** *(Nurse Wahome)* was the seventeenth witness who appeared before the Committee and she adopted her written statement dated 21st February, 2018. It was her evidence that she is a Kenya Registered Nurse, Nursing Officer I, working in Ward 5 A at KNH. The witness stated that on the material day at around 9.15 pm the trauma theatre called the ward requesting for the patient, John Mbugua Nderitu. She went to room 2 and shouted the names of the patient and one of the

patients in the ward responded. She thereafter went back to the nurses desk, prepared the file, the patient's label and antibiotics. She then proceeded to male room 2 together with the porter to take the patient who had responded. It was her evidence that she called out the patient's names again and the same patient responded. She then prepared him and wheeled him to the trauma theatre.

73. On being cross examined by the Committee the witness reiterated that she went to male room 2 and called out the names of the patient and she thereafter went to prepare the file, patient's label and the antibiotics. It was her evidence that she went back to the room again and called out the patient's name a second time and the same patient responded

74. It was the evidence of Nurse Wahome that the patient did not have a name tag at the time she called out his names. She stated that she filled the pre-operative checklist, collected the blood from the blood bank and wheeled the patient to theatre. It was her further evidence that she handed over the patient labelled, John Nderitu, together with the blood to the theatre team.

75. Nurse Wahome further testified that she arrived at the ward at 5.30 pm but she did not take part in the hand over as she was engaged in other duties which needed her attention. She stated that after the report was handed over to Nurse Mwangi she requested for a brief of the main report at which point she was informed that there was a patient named 'John Nderitu in male room 2 who needed to go to theatre. It was her evidence

that at around 9.00 pm Blood Transfusion Unit (BTU) called the ward and informed them that the blood was ready.

76. The witness further testified that Nurse Mwangi did not physically identity the patient to her. She stated that male room 2 had about 12 patients and she identified them by calling out their names. Of the 12 patients all were responsive except for one patient. It was her evidence that the cardex is not usually arranged in a chronological manner. She also testified that she did not see the strapping on the patient, John Nderitu's, gown as the patient did not have a hospital gown at the time.

77. Nurse Wahome further testified that Nurse Mwangi received the call from trauma theatre and he then inquired from her whether there was a patient by the name John Nderitu in the ward and she informed him that she had already taken him to theatre. It was her evidence that around 6. 30 am on 20th February, 2018 Nurse Mbela asked her whether she had taken the patient settled in the middle of the room to theatre. It was at that point when she realised that she had taken the wrong patient to theatre. The witness further testified that labels are only used for patients going to theatre, bodies of deceased persons and patients who are confused and hence at risk of moving all over. She stated that the last time she used the appropriate name tags was some time last year.

78. On being cross examined by the Learned Counsel for the Hospital the witness testified that she was the primary nurse for the patients in male and female rooms 2. She confirmed that it was her responsibility to prepare the pre-operative checklist which she did for the patient, "John Nderitu". She

admitted that on the material day she did not take part in the hand over because she was attending to other duties which included customer care and responding to calls. It was her evidence that according to nursing regulations handing over is mandatory.

79. The witness further testified that the patient who was in the middle of the room did not have a gown or a blanket. The witness was shown the contents of her written statement by the said Counsel and she stated that she prepared that statement under pressure and duress as she was not given a chance to correct any mistakes. She clarified that in her statement dated 21st February, 2018 the reference 'John Kamau Wachira' was wrong and she was referring to Samuel Kimani Wachira and she requested that the statement be amended to read Samuel Kimani Wachira.

80. On being cross examined further by the Committee the witness stated that male room 2 had some patients who needed medication and she was aware that the patient, John Nderitu, had been taken to theatre in the day.

81. On cross-examination by Counsel for the Complainant she testified that she did not see a patient's file for Samuel Kimani Wachira.

82. **Nurse Catherine Gakii Kibiti**, *(Nurse Gakii)* was the eighteenth witness who appeared before the Committee. The witness adopted her written statement dated 7th March, 2018 and stated that on the material day she reported to night duty at around 5.30 pm and received the report from

the Team leader for the day shift. In the report on pending emergency list there were 7 patients awaiting operation out of which 3 were neuro cases and 4 were orthopaedic cases. One of the patients in the neuro emergency list was John Mbugua Nderitu. It was her evidence that at around 9. 30 pm she called ward 5A and inquired whether the patient, John Mbugua Nderitu, was ready. She thereafter sent a porter to bring the patient to the trauma theatre.

83. The witness testified that on receiving the patient at the trauma theatre, she noted that he was confused and he was not able to communicate verbally. The "patient" who had been taken to theatre and labelled "John Nderitu", had a strapping on his chest that was labelled "John Nderitu". The witness confirmed that the identity of the patient was done using the documents provided by the ward nurse. It was her evidence that at around 2.30 pm she called the ward and requested the nurse on the line to confirm whether they had a patient, John Mbugua Nderitu. The Nurse confirmed that the name appeared in the record book and she insisted that he confirms from the ward. After sometime, the nurse confirmed that the patient had been taken to theatre for craniotomy.

84. On cross examination by counsel for the Hospital it was her evidence that she personally called the ward once to confirm the identity of the patient.

85. At this stage, **Mr. Nyachoti**, Learned Counsel for the Respondent requested to Committee for permission to recall Dr. Peter Masinde to the witness stand so as to respond to issues related to availability and use of

the name tags at KNH. The Committee allowed the oral application as it was not opposed by any of the other parties.

86. Thereafter Dr. Masinde testified further and it was his evidence that during the period of the incidence, the identification tags were available in the store for KNH but they were not in the ward. It was his evidence that as at 13th February, 2018, there were 1,000 adult identification tags delivered to the Hospital's store. He clarified the main requisition is usually done manually. The witness further testified that he had not seen any report on the quality of the identification tags. He further testified that a stock take was done on 14th February, 2018 which indicated that Ward 5A had 200 arm bands.

87. The evidence of Dr. Masinde on being recalled created some interesting response as the nurses applied to be allowed to rebut the additional evidence by the said doctor. The Committee allowed a new witness to give evidence on the issue of the name tags.

88. **Crecencia Ngatti Malemba** *(Nurse Malemba)* was allowed to give evidence and none of the parties objected to the evidence by the said witness. The said witness testified that she is the Deputy Chief Nurse at KNH and she was covering surgery division and has worked at the Hospital for 32 years. It was her evidence that in July 2017, the hand bands were not available as they were out of stock. She stated that requisition of supplies at KNH is done electronically, contradicting the additional evidence by Dr. Masinde. She further stated that when an order for supply is normally

placed by Ward 5 A on Monday's and the delivery would be made on Wednesday.

89. It was her evidence that at that time of the mix-up, the Hospital had not put in place a policy which stipulated that every patient should be tagged.

90. The witness was cross examined by the Counsel for the Hospital and she testified that after the incident, there was a meeting that was held within the Hospital and the issue of the tags being sub-standard in quality or not of good quality was raised. She further testified that there was a time nurses rejected tags as they were of bad quality.

91. **Nurse Gideon Mwangi** was recalled by the Committee to clarify on the issue of the availability of the arm bands. It wos his evidence that they requested for the arm bands all through the months of December of 2017 to February of 2018 and the standard response given was that they were out of stock. He testified that they made application for supply of stock every Monday and the response was the same all through. He admitted that every nurse in the ward had access to the store within the ward. He further testified that 100 identification bands were delivered to Ward 5 A on 26th February, 2018 from the main store and that was after the incident under inquiry.

92. **Nurse Rita Linda Akinyi** was also recalled by the Committee and she clarified that stock taking for Ward 5 A was done by Nurse Karanja. She confirmed that she had access to the store within the ward and she had

not seen the arm bands within KNH for a long period of time prior to the incident.

93. **Ms. Koros,** the CEO of KNH was also recalled and she informed the Committee that the issue of the arm bands was noted and discussed by Hospital management after the incident under inquiry. It was her evidence that the Deputy Director for Supply Chain confirmed to her that as at 19th February, 2018t there were 3,000 arm bands in the store for KNH.

94. At the close of the hearing the observers were given an opportunity to make observations before the parties made their respective submissions. **Ms. Nargis Kaka** from the Nursing Council of Kenya thanked the Committee for the inquiry and stated that the witnesses were treated fairly. She stated that from the evidence presented by parties it was clear that SOPs were not in place at the Hospital at the material time. She further stated that there were notable gaps in stock taking and tagging of patients which needed to be addressed.

95. **Ms. Perez Wawire** from the Clinical Officers Council appreciated the Committee for allowing their Council to sit as an observer in the inquiry. She stated that though the wrong patient was operated on, the evidence presented before the Committee showed that the surgical team was competent. She further stated that the patient came out of surgery with a good outcome but there were omissions within KNH which need to be addressed. She stated that the Hospital is the largest facility in the Country and although it is ISO Certified there were serious issues on the implementation of its SOPs. She further stated that from the evidence by

parties there were bad habits that appeared to have become norms at the Hospital and there was need to address them. She pointed out that the general practice in the profession is that before a patient is taken to theatre, the practitioner ought to have seen him. She also stated that the Hospital needed to enforce the implementation of the SOPs and supervision of its staff.

96. **Prof. Peter Ndaguatha**, the Head of Department of Surgery at the University of Nairobi, College of Health Sciences, School of Medicine, was sitting as an observer and he stated that as a trainer he was made aware of the incident on 22nd February 2018 by the Director of Clinical Services of the Hospital. He stated that the letter by KNH to the Registrar, Dr. Hudson Ngáng'á, who was a trainee, was erroneous as the trainers were not informed before the suspension was undertaken. He stated that as trainers they do not condone surgical mistakes. He also stated that he wrote a letter to the Hospital expressing displeasure in the manner in which the trainee was suspended as he was a student of the University of Nairobi. The said letter stated that the decision to suspend their trainee was done without consulting the trainers and they demanded that the suspension be withdrawn. He further stated that KNH did not respond to his letter and as a result the Registrars at the Hospital downed their tools. He indicated that he appealed to the students to resume work so as to give his office time to resolve the dispute directly with KNH.

97. Prof. Ndaguatha further stated that during the inquiry several truthful facts were raised by witnesses and it was his hope that there would be change at the Hospital.

98. **Ms. Stella Githaiga**, the Branch Chair of the National Nurses Association of Kenya, Kenyatta National Hospital Branch stated that as nurse leaders they noted that the Committee did a commendable job and was accommodative to the witnesses and parties.

SUBMISSIONS

99. The Learned Counsel for the Complainant, Mr. Wahome, submitted that the Complainant filed a complaint to the Board on behalf of his brother and the Respondent did not contest the facts leading to the erroneous surgery. He submitted that the Complainant was unwell and currently recovering in Nyeri County.

100. The Learned counsel submitted that the there was no dispute that the patient was admitted at KNH and on 19th February 2018 he was wheeled to theatre and he then underwent an erroneous operation. It was his submissions that there was no dispute that the patient underwent an erroneous operation and hence the Committee should hold the Hospital liable. He also urged the Committee to adopt the finding of the PIC and to find the Hospital and its staff negligent.

101. Mr. Nyachoti, the counsel for the Respondent, submitted that he would only address the Committee on legal issues. It was his submissions that the PCC had no jurisdiction to undertake the inquiry. He submitted that though the Respondent had opted to participate in the proceedings before the Committee but that does not grant the PCC jurisdiction. He referred the Committee to High Court Judicial Review Case No. 398 of

2016 wherein the Court held on 28th February 2018 that the PCC was created pursuant to amendments of 2013 and hence the Committee had no jurisdiction.

102. The Learned Counsel further relied in the case of H.C Judicial Review Case No. 95 of 2015 wherein Hon. Justice Odunga held that the Board or its committees have no powers against medical institutions save for registered members. He reiterated that the Board had no jurisdiction to undertake an inquiry on Kenyatta National Hospital.

103. The Learned Counsel further submitted that the evidence presented before the Committee was seeking to protect individual medical personnel by putting emphasis on general systemic failure at KNH. He further submitted that practitioners ought to take personal responsibility.

104. The learned counsel for the Respondent further submitted that the composition of the Committee cannot be fair and he stated that some of the members of the panel are associated with the University of Nairobi and hence they could not be fair in the inquiry. He submitted that one member of the Committee, Dr. Elly Nyaim, was associated with the University of Nairobi where as he is a member of the Faculty of surgery. He further submitted that the Board gave notice to the Hospital on 21st March 2018 and a subsequent letter from the Board was delivered on 3rd April 2018 inviting KNH to attend the inquiry. He further submitted that the Committee consisted of two (2) members who have been pushing KNH for registration of the College of Surgeons of East Central and Southern Africa (COSECSA). He submitted that the program is in direct competition with

the University of Nairobi and hence there would been an open biased. He further stated that COSECSA is in direct competition with UON on training surgery students and KNH had not allowed the program.

105. Mr. Nyachoti was requested by the Committee to address it on the principle of estoppel by conduct. He stated that he sought to introduce preliminary issues at the commencement but the Committee advised him to address the issues at the end of the hearing during submissions. He further submitted that as a rule estoppel it does not apply against principles of natural justice like being the right for parties to be heard by an impartial Tribunal and fairness.

106. The Counsel further submitted that he would not make oral submissions on the proceedings as he entirely relies on the objections on the Law as made above. He stated that the objections have been done fairly and in good faith and further by him as a Lawyer for the Hospital. He further submitted that in his feelings the proceedings have not be balanced as Committee members have appeared to have been impartial but on being asked to clarify he was not able to clarify. On being asked his reasons for the submissions on impartiality he stated that he did not wish to submit further on the issue.

107. Mr. Wahome submitted in response that the factual issues on the matter on inquiry had not been contested by the Respondent in any way.

C. FINDINGS

108. The Committee considered the objections by the Respondent with regard to the locus of the Complaint, being a brother to the patient, to lodge a complaint on behalf of the patient. The Committee noted the evidence of the Complainant during the inquiry by the PIC and the submissions by his counsel that he was a brother to the patient and that the patient was recovering in Nyeri. There is no doubt that indeed that patient, Samuel Wachira, was admitted at the Kenyatta National Hospital at the material time and he underwent a mistaken procedure. Thereafter the issue was widely publicized in the local media. The Jurisdiction and powers of the Board to undertake disciplinary proceedings in anchored in section 20 of the Medical Practitioners and Dentists Act and the applicable Rules thereunder. The said section does not expressly provide that a complaint before the Board must be made by the patient as that would be against the spirit of the said provisions more so instances wherein the complaint wherein the patient is deceased.

109. The Committee considered the definition of "*complainant*" under **Rule 2** of the **Medical Practitioners and Dentists (Disciplinary Proceedings)(Procedure) Rules** wherein its defined as;-

"A body or person that makes a complaint to the Board"

110. The said provision does not restrict the complaint to being made by the patient only as appears to have been submitted by the Respondent. Further, the provisions of pages 19 and 20 of the **Code of Professional Conduct and Discipline, 6th Edition**, provide that the Medical Practitioners

and Dentists Board can receive complaints from numerous sources which include members of the public and other Tribunals. In the present case the complaint was previously under inquiry by the Preliminary Inquiry Committee and by a ruling dated 16th March 2018 the said Committee recommended that the inquiry be undertaken by this Committee as provided by **Rule 4A** of the **Medical Practitioners and Dentists (Disciplinary Proceedings)(Procedure) Rules.** The said provision grants the PIC powers to make recommendations for an inquiry to be undertaken by the PCC. In view of the aforegoing the objection by the Respondent on the locus of the complainant lacks merit.

111. The Committee considered the next objection by the Respondent on its jurisdiction and in as much as it appreciates the holding by the High Court in Judicial Review Case No. 398 of 2016 and Judicial Review Case No. 95 of 2015 the Committee having carefully considered the Court's holding and the circumstances of the case herein finds that the circumstances of the present case and those in the cited judicial authorities are distinguishable. The complaint under inquiry by the Committee herein relates to acts and a complaint that occurred after the 2013 amendments of the Medical Practitioners and Dentists (Disciplinary Proceedings) (Procedure) Rules. Further, the Complaint was against Kenyatta National Hospital arising from an incident that involved the conduct and acts of Hospital staff as well as a post-graduate student undertaking neurosurgical specialist training. The Board has no powers to undertake an inquiry on the conduct by other cadres or professionals regulated by other Boards and hence the wisdom of the PIC in the ruling of 16th March 2018 referring the

inquiry on the conduct of such professionals to their respective Regulators. As regards the professionals involved in the surgery at KNH they were Registrars who were undertaking post graduate training under at the College of Health Sciences, School of Medicine of the University of Nairobi. The training of the Registrars is carried out at the Kenyatta National Hospital which is a designated teaching hospital for the University of Nairobi and involves supervision by consultants from both the University of Nairobi and those from Kenyatta National Hospital.

112. In view of the above, the Committee distinguished the facts of the present case from those in the judicial authorities cited by the Respondent, and further considered the provision of **Section 5** of the **Legal Notice 109/1987** which established Kenyatta National Hospital as a State Corporation, wherein its functions includes, among others, to provide facilities for medical education for the University of Nairobi and training in nursing and other health and allied institutions.

113. The Committee thus finds that **Section 11A** of the **Medical Practitioners and Dentists Act, Chapter 253 of the Laws of Kenya**, grants the Board powers to supervise the standards of teachings by institutions and how such institutions conduct training in medicine and dentistry, and as a consequence thereof, the objection by the Respondent's to the Committee's jurisdiction on this limb cannot be sustained.

114. The Committee is however alive to the circumstances leading to the judicial decisions cited by the Respondents and recommends that the Medical Practitioners and Dentists Board should as a matter of urgency

liaise with the relevant Government Bodies and the appropriate arms of Government to facilitate amendment of the Medical Practitioners and Dentists Act for the benefit of the general public more so in cases of professional misconduct wherein Institutions are culpable or negligent. In practice most claims and complaints for medical malpractice are for the tort of negligence and the principle of vicarious liability is often pleaded, and in many cases rightly so, hence the need to address the issues cited in the said judicial decisions.

115. The Committee considered the submissions by the Respondent that the Committee was seeking to protect individual medical personnel by putting emphasis on general systemic failure at KNH and holds that the said submissions were not supported by any evidence. The Committee notes that the Respondent made general allegations without any evidence to support them and hence the said objection must fail.

116. Dr. Nyaim recused himself briefly to enable the Committee deliberate on the objection raised by the Respondent on his alleged involvement with the University of Nairobi which posed a potential conflict of interest. After deliberations by the other members of the Committee it was noted that Respondent received the Notice of Inquiry on 21st March 2018 and thereafter appeared before the Committee on the morning of 5th April 2018. At no time did the Respondent or its counsel raise such objection until after close of the hearing. Further, no witness gave evidence to support the submissions by the Learned Counsel. The Committee further holds that it consists of seven (7) members and there was no evidence to

support allegations that one member of the Committee was conflicted or having an upper hand to influence the decision of all other members. Further, the Respondent allowed Dr. Nyaim to sit through the entire Inquiry as a member of the Committee and it's thus estopped under the principle of *Estoppel by Conduct* to raise an objection in the manner raised. The Respondent participated in the Inquiry to its conclusion and also cross examined all witnesses without raising any objection. Consequently the remaining members of the Committee find that the objection under this limb was an afterthought and hence lacking in merit.

117. Further, the Committee considered the objection by the Respondent on its Composition on grounds that two (2) of its members were affiliated to COSECSA. The Committee unanimously finds that the objection was also raised belatedly and there was no evidence to support allegations of impartiality or bias. The Learned Counsel was not able to explain why he failed to raise the objection made herein at the Commencement of the hearing but he alleged that he was advised that he would raise it at the time of making the Respondent's submissions. However, a review of the proceedings shows that the Respondent's counsel only raised one preliminary objection at the commencement of the inquiry which related to the *locus standi* of the Complainant to lodge a complaint on behalf of his brother and the said objections has been considered herein above. The Committee referred to the Case of *Moorgate Mercantile Co. Limited – vs- Twitchings (1976) 1QB.225*, wherein it was held, *inter alia*, that;-

> *"estoppel is not a rule of evidence.....it is a principle of justice and equity. It comes to this: when a man, by his words or*

conduct, has led another to believe in a particular state of affairs, he will not be allowed to go back on it when it would be unjust or inequitable for him to do so"

118. In view of the above finding the Committee holds that the objection by the Respondent on this limb is also an afterthought and thus lacking in merit.

119. The Committee further considered the role of the Registrars and more so the surgeon, Dr. Hudson Ng'ang'a, on his competency and it finds that he undertook the operation on Samuel Kimani Wachira assisted by Dr. Mose Felister Moraa, who was also a post graduate student, and under the circumstances of the case they could not be faulted as they reviewed the documents presented to them appropriately, confirmed the identity of the said patient, as presented to them, and thereafter carried out the planned Craniotomy procedure for the management of the patient as would have been expected of them. The Committees of the Board have severally rightly held that the mere fact that something has gone wrong during the course of an operation is not per se indicative of negligence or malpractice. In the present case the Team evaluated the "patient" appropriate and undertook the expected procedure that was expected in the proper scenario.

120. The Committee finds that the patient, Samuel Kimani Wachira, was wrongfully operated on as a result of inaccurate patient identification and there was no evidence of fault on the part of the Registrars. The

Committee further finds that the method of patient identification used at the Hospital at the material time was grossly inadequate and not in keeping with recognized international best practice for patients' safety.

121. The Committee further finds that global guidelines require patients to be identified at the first point of contact in a Hospital. The identification should include: the name, date of birth/age, sex and Hospital Number. However, the evidence on record shows that whilst the Hospital had an SOP for Transfer of Patients from A&E Department to the Wards that was dated 10th July 2017 it lacked an express provision for identification of patients. The Respondent's witnesses admitted that they have since formulated a specific SOP on Patient management in A&E, dated 16th March 2018, which has a provision for patient identification under clause 6.7.2.

122. The Committee considered the ***World Health Organisation in collaboration with JCI on patients safety solutions, Vol. 1 of 2007*** found that:-

> *"Throughout the health care industry the failure to correctly identify patients continues to result in medication errors, transfusion errors, testing errors, wrong person procedures and discharge of infants to the wrong families ..... regardless of the technology for approach used for accurately identification of patients careful planning for the processes of care will ensure*

proper patients identification prior to any medical intervention and provide safer care with significantly fewer errors."

123. The Committee further considered a quote from a medical journal known as *Revista Gaucha de Enfermagem, version ISSN 1983-1447,* wherein it provided that:

> *"The patient identification process is essential to ensure safety and quality of assistance in healthcare institutions. The use of wristband for identification is common practice....."*

124. The Committee further referred to the **Policy & Procedure of Patient Identification from the Ministry of Health in the Republic of Oman** which provides, *inter alia*, that;-

> *"Patients unable to provide identifying information, who experience conditions requiring emergency care will receive treatment prior to identification if such care and treatment is necessary to stabilize the patient's condition"*

125. The Committee further finds that the nursing staffing ratios at the Kenyatta National Hospital were at the material time stretched way beyond the World Health Organisation's recommendation. The evidence before the Committee was that the ratio at the Hospital was at the time between 1:20 and 1:30 against the recommended WHO ratio of 1:4 in a surgical ward.

126. The Committee noted that the management staff of the Hospital admitted in their evidence that the Hospital had at the material time tags in its stores whereas the nurses from ward 5A testified that they had not been supplied with tags, for several months, despite repeated requisitions. It was thus evident that the Hospital had a poor supply chain management system that needed to be improved.

127. The Committee also noted that there was inadequate equipment as would be reasonably expected in a National Tertiary Care Referral Hospital. There was evidence that there were delays in getting follow up CT scan services as well as facilities for intracranial pressure monitoring.

128. The Committee further finds that the neurosurgery patients were spread out in different waras within the Hospital as was held by the Preliminary Inquiry Committee, in the decision of 16th March, 2018 at paragraph 79, which could lead to a compromise in the management of such patients.

129. The Committee also noted that there was a gap in Clinical Governance as the evidence shows that the Medical Advisory Committee ("MAC") at the Hospital had not been meeting regularly. Evidence adduced shows that the MAC meets on an *ad hoc* basis to deal mainly with disciplinary issues and hence it does not serve the intended purpose as defined by international best practice. Further, the existing clinical Committees at the Hospital do not appear to be co-ordinating with the MAC as would be expected.

130. The Committee further finds that there was lack of a co-ordinated approach between KNH and the School of Medicine of the University of Nairobi, as regards to number of trainees admitted for training at both the undergraduate and post graduate levels. The Committee finds that the aforegoing creates a risk that could compromise the quality of training.

131. The Committee also finds that the manner of handing over between nursing shifts, as described to the Committee, appeared to be unprofessional. The Committee thus finds that this manner of handing over at the Hospital jeopardizes safe patients' management and there is need to review the said process.

132. The Committee also noted that the hand over between the anaesthetic clinical staff does not conform to international best practice. The Committee considered the publication by Philip M. Jones and others dated January, 9th, 2018 ***"Association Between Handover of Anaesthesia Care and Adverse Postoperative Outcomes among Patients Undergoing Major Surgery"*** which indicated that

> ***"handing over of a patient from one anaesthesiologist to another during some surgeries might increase the risk of adverse outcomes"***

133. The Committee further noted that the duty rota provided did not clearly define the responsibilities of the clinical staff included in the rota. It was noted that patients were prepared for surgical intervention

by junior doctors in training without clear involvement of the consultants which was not the best practice.

D. ORDERS

In view of the above findings, the Committee makes the following Orders:

(I) Kenyatta National Hospital is directed to ensure continuous monitoring of the implementation of the patient identification Standard Operating Procedures.

(II) Kenyatta National Hospital is hereby directed to take steps to hire additional nursing staff in order to improve the nurse-patients ratios and strive to comply with the World Health Organisation staffing recommendations. Thereafter the Respondent shall update the Chairman of the Medical Practitioners and Dentists Board of the progress made after 90 days from the date of this decision.

(III) The Committee further recommends that Kenyatta National Hospital do put in place a policy for continuous professional development and retention of nursing staff in tandem with the development of specialist clinical services.

(IV) Kenyatta National Hospital is directed to put in place measures to improve the supply chain management system at the Hospital and also ensure they have a system for proper communication with the user Departments.

(V) Kenyatta National Hospital should initiate steps to have a separate dedicated unit for neuro-trauma patients within its facility to

enhance the effectiveness in the treatment and monitoring of the patients.

(VI) Kenyatta National Hospital should put in place a Clinical Governance Structure that should include a functional MAC that meets regularly and complies with the international best practice. The Committee further recommends the reestablishment of Clinical Divisions which shall report to the MAC.

(VII) Pursuant to Legal Notice 109/1987, Kenya National Hospital Board Order, 1987, there exists a Memorandum of Understanding ("*MoU*") between Kenyatta National Hospital and the University of Nairobi, which details the specific responsibility of both institutions. However, the provisions of the said MoU were not being implemented and therefore the Committee directs that the MoU be reviewed in light of emerging changes in training, clinical services and research.

(VIII) Kenyatta National Hospital is directed to liaise with the Nursing Council of Kenya to review and ensure adherence to Standard Operating Procedures relating to patients hand over.

(IX) The Office of the Director of Medical Services is directed to work in liaison with the County Governments to strengthen services, ensure an efficient referral system at the County Hospital and thus enable Kenyatta National Hospital to effectively function as a National Tertiary Referral Hospital.

(X) Kenyatta National Hospital should ensure that the duty rota clearly outlines the duties and responsibilities of the various doctors and assigns appropriate roles commensurate with the respective institutional staffing titles; which should be in keeping with the recognition and licensing from the Medical Practitioners and Dentists Board.

(XI) Kenyatta National Hospital do enter into mediation agreement with Samuel Kimani Wachira with a view of compensation and report to the Medical Practitioners and Dentists Board within sixty (60) days from the date hereof.

SIGNED BY:

1. DR. MUBASHIR M. QUERESHI	CHAIR	.....
2. DR. DAVID L. OLUOCH –OLUNYA	MEMBER	.....
3. DR. NILESH KUMAR MOHAN	MEMBER	.....
4. DR. ELLY NYAIM OPOT	MEMBER	.....
5. COMM. KAGWIRIA MBOGORI	MEMBER	.....
6. PETER MUNGE MURAGE	LEGAL ADVISOR	.....
7. DANIEL M. YUMBYA	CEO/SECRETARY	.....

DATED THIS 10TH DAY OF APRIL, 2018

ANNEX 3

April 2018

Kenyatta National Hospital

REPORT TO CABINET SECRETARY, MINISTRY OF HEALTH ON THE UNINTENDED SURGICAL INTERVENTION

APRIL 2018

VISION

A world class patient centred specialized care Hospital.

MISSION

To optimize patient experiences through innovative evidence based specialized healthcare, facilitate training, research and participate in national health Policy formulation.

MOTTO

We listen, We care

CORE VALUES

- Customer focus
- Professionalism & Integrity
- Teamwork
- Equity and Equality
- Teamwork and Team Spirit
- Safety

ACRONYM/ABBREVIATIONS

A&E	: Accident and Emergency
CCTV	: Close Circuit Television
HDU	: High Dependency Unit
HMIS	: Hospital Management Information System
ICT	: Information Communication Technology
KNH	: Kenyatta National Hospital
MAC	: Medical Advisory Committee
MoH	: Ministry of Health
MoU	: Memorandum of Understanding
MP&DB	: Medical Practitioners and Dentists Board
NYS	: National Youth Service
PACU	: Post Anaesthesia Care Unit
SOPs	: Standard Operating Procedures
UoN	: University of Nairobi

1. REPORT OF THE EXTERNAL AUDIT CONSULTANT ON REVIEW OF KNH PATIENT SAFETY PROFILE

KNH SOPS AND TREATMENT GUIDELINES

NO	KEY RISKS NOTED	BOARD RESOLUTIONS	ACTION TAKEN
1	Poor referencing of SOPs and incomplete SOPs in the various departments.	Revision of the SOPs with the aim of linking	i) SOPs for all service levels under review with proper reference ii) Developed SOP on identification of confused, unconscious, paediatric and elderly patients. iii) Developed SOP on handing over procedures of patients by nursing personnel during shift change, with a mandatory requirement that the floor manager must acknowledge receipt of the handing over report and be responsible for the same. iv) Strict enforcement of SOPs. v) Uniform program to be developed for orientation of the new employees.
2	Hierarchical communication that hinders communication across different cadres especially in the clinical areas especially between the nurses and the specialists.	Develop process and SOP for on boarding clinicians.	
3	Lack of uniform orientation of new employees	Improve level of detail in SOPs	

ACCIDENT AND EMERGENCY DEPARTMENT

NO	KEY RISKS NOTED	BOARD RESOLUTIONS	ACTION TAKEN
1	Multiple registration due to use of tags with inadequate details.	Management to have the outpatient and inpatient numbers merged to become a unique patient number for use as identification. The billing number to be retained for system tracking.	Under review.

NO	KEY RISKS NOTED	BOARD RESOLUTIONS	ACTION TAKEN
2	Patient falls from stretchers due to absence of railing	Management to fix rails on the beds that don't have.	Repair and refurbishment of stretchers ongoing.
3	Infection and physical harm due to uncontrolled human traffic in the A&E Department	Management to enforce referral system.	i) Strict enforcement of the referral system as provided in the Kenya Health Sector referral strategy. ii) Adherence to proper referral documentation on admission. iii) To implement, once approved, recommendations of MoH Taskforce established to decongest the Hospital.
4	Sub optimal care due to crowding and unscheduled referrals		
5	Sub-optimal care due to absence of emergency medicine, experts or dedicated trauma experts	Management to recruit the relevant personnel.	Report on Human Resource Gaps enclosed.

SURGICAL WARDS

NO	KEY RISKS NOTED	BOARD RESOLUTIONS	ACTION TAKEN
1	Shortage of essential equipment such as BP machines and thermometers.	Management to urgently procure the equipment	In progress.
2	Admitting patients beyond ward capacity, and/or delaying patient discharge, mainly due to long credit processing periods	Refer action taken in item No.3/4 under A& E on referral system.	
3	Inadequate enforcement of the surgery site marking SOP requirement	Management to urgently procure the markers	Human maker pens procured to mark surgical sites.
4	Poor inventory management of drugs	Management to fast track procurement of HMIS	Consultant on Business Process Engineering engaged to map out the ICT needs of the Hospital.
5	Absence of security mechanism to stop patient flight	Management to engage external security to assist in manning the Hospital	i) The Management engaged the services of NYS for 2 months to beef up security in the Hospital. After the two months, NYS were replaced by an outsourced firm.

NO	KEY RISKS NOTED	BOARD RESOLUTIONS	ACTION TAKEN
			ii) The Management procured through open tender and awarded tender for provision of guarding services to Lavington Security Ltd. Company to provide the Hospital with 122 guards for a period of 1 year.
6	Burn-out due to wrong duty allocation, e.g. giving nursing staff non-nursing duties	Refer action taken in item No.5 under A& E on staff shortage.	

MAIN OPERATING THEATRE

NO	KEY RISKS NOTED	BOARD RESOLUTIONS	ACTION TAKEN
1	Risk of interruption of surgery due to frequent equipment breakdown.	Management to prepare report to MoH on obsolete equipment and cost for replacement	Report on Plant and Equipment Replacement Plan 2017-2022 enclosed.
2	Prolonged exposure to anaesthesia due to lack of proper surgical equipment, e.g. neuro drill.		
5	Risk of poor infection control due to leakages in theatre (roof and floor).	Management to repair the leakages	Repair works on going
6	Risk of delays attending to emergencies because only one theatre works at night.	Management to ensure optimal utilization of theatres	8 theatres currently working on 24 hours i.e. • 2 Casualty • 2 Labour Ward • 4 Main Theatre

CSSD & TSSU

NO	KEY RISKS NOTED	BOARD RESOLUTIONS	ACTION TAKEN
1	Non-functional service lifts	Management to ensure replacements service lifts	Request made to MoH for funding to replace the lifts.
2	Delays in sterilization due to faulty equipment.	Management to ensure all equipment are serviced on time	Planned Preventive Maintenance Contracts entered into with various service providers.

CRITICAL CARE UNIT (CCU)

NO	KEY RISKS NOTES	BOARD RESOLUTIONS	ACTION TAKEN
1	Low number of ICU beds (ratio of one CCU bed to 75 ward beds, instead of recommended ratio of 6-12 ward beds)	Management to consider additional ICU beds	Additional ICU beds available but require trained personnel to manage the patients.
2	Sub-optimal care due to shortages on intensivists (only one intensivist available)	Refer action taken in item No.5 under A& E on staff shortage	
3	Unnecessary overstays in ICU due to absence of step-down mechanism	Management to consider provision of HDU facility	Report on cost implications of establishing HDU facility to be presented to the Board for consideration.
4	Unnecessary overstays at CCU due to poor communication to family members on whether patient is benefitting from CCU care	Policy issue to be discussed with MoH and the Hon. Attorney General.	

2. REPORT OF THE DEPARTMENTAL COMMITTEE ON HEALTH ON THE ALLEGED SEXUAL ASSAULT, BREAKDOWN OF EQUIPMENT, SURGICAL MIX-UP, AND GENERAL OPERATIONS OF KENYATTA NATIONAL HOSPITAL, AS ADOPTED WITH AMENDMENTS BY THE NATIONAL ASSEMBLY ON 28TH MARCH 2018

NO	RECOMMENDATIONS	ACTION TAKEN
1	There is need to engage an expert in security management and review the security arrangements within the Hospital	i) The Hospital engaged NSIS in 2011, National Counterterrorism Centre in 2015 and NIS in 2016 who conducted security surveys. Their recommendations have informed our Security and Safety Strategy 2017-2022. ii) Hospital has engaged Lavington Security Ltd to boost security presence in the Hospital.
2	Enforce fixed number of visitors and adhere to visiting hours. This should be done with an automated patient and visitor information management system.	i) Number of visitors restricted to 2 per patient. ii) Adherence to visiting hours enforced. iii) Consultant engaged in business process re-engineering to map all ICT needs for the Hospital.
3	All sections of the Hospital to be properly lit and crucial areas covered by CCTV surveillance.	i) Proper lighting effected in all crucial areas within the Hospital. ii) CCTV surveillance implemented.
4	Engage NYS to provide additional security within the hospital to augment existing security measures.	The Management engaged the services of NYS for a period of 2 months after which they were replaced by a private security firm to boost internal security.
5	KNH, MoH and the National Treasury to undertake comprehensive costing of all medical equipment required by the hospital to guide resource allocation.	Report on Plant and Equipment Replacement Plan 2017-2022 shared with MoH.
6	KNH to strictly enforce the referral strategy.	i) Strict enforcement of the referral system as provided in the Kenya Health Sector referral strategy. ii) To implement, recommendations of MoH Taskforce established to decongest the Hospital, once approved.

NO	RECOMMENDATIONS	ACTION TAKEN
7	KNH to digitize its systems and ensure adherence to standards and avoid lapses ad minimize human error.	The Management is undertaking a Business Process Re-engineering which will form the basis for digitization and general automation and which incorporates: i) biometric system of identification of patients, including confused, unconscious, mentally ill, paediatric and elderly patients; ii) monitoring of patients; and iii) a robust financial monitoring system.
8	KNH to invest in robust financial monitoring system to ensure fees collected are well captured and accounted for.	
9	KNH to strengthen existing partnership and create new linkages with development partners to support the institution.	Hospital has strong partnerships with various development partners including but not limited to the Governments of Israel, Austria, USA, Germany, the Netherlands among others.
10	KNH to proactively develop its budget in good time to ensure resources are released on time.	Proposed annual budgets are always released on time.
11	KNH, MoH and the National Treasury to immediately recruit medical and non-medical personnel to address the shortfall in the Hospital.	Report on human resource gaps prepared for onward transmission to MoH.
12	KNH to avail enough non-medical supplies including linen, uniforms and proper visible staff name tags.	Addressed in the Hospital's Annual Procurement Plan.
13	KNH in collaboration with MoH to develop guidelines on handling of medical bills waiver for indigent patients to cushion the hospital against revenue leakages	KNH has a Credit Policy in place since 2012. The Credit Policy has been reviewed and is awaiting Board approval for implementation.
14	KNH/UoN to discuss engagement of registrars and in general the arrangement between the Hospital and the University.	i) KNH formally communicated to UoN on the numbers of medical students the Hospital is able to accommodate. ii) KNH/UoN to review the Memorandum of Understanding between KNH and UoN, College of Health Sciences on engagement of registrars, among others.

3. **RULING OF THE MP&DB, PROFESSIONAL CONDUCT COMMITTEE DATED 10TH APRIL 2018**

NO	ORDERS	ACTION TAKEN
1	KNH to ensure continuous monitoring of the implementation of SOP on patient identification.	Patient Affairs Unit charged with responsibility of monitoring adherence to SOP in all clinical areas.
2	KNH to take steps to hire additional nursing staff to improve the nurse-patient ratios and update the Chairman, MP&DB within 90days on progress made thus far.	Report on Human Resource Gaps enclosed.
3	KNH to put in place continuous professional development and retention of nursing staff in tandem with the development of specialist clinical services.	Continuous professional development training in place.
4	KNH to put in place measures to improve supply chain management system and ensure proper communication with User Departments.	Measures taken to enhance communication between Supply Chain Department and User Departments.
5	KNH to initiate steps to have a separate dedicated unit for neuro-trauma patients to enhance effective treatment and monitoring of patients.	In-progress.
6	KNH to put in place clinical governance structures including a functional MAC.	MAC reconstituted on 19th March 2018 with membership drawn from both KNH and UoN-College of Health Sciences.
7	KNH to liaise with NCK on SOP relating to patient handover.	SOPs on all service levels currently under review.
8	KNH to ensure duty rota clearly outlines duties and responsibilities of various doctors and assign appropriate roles commensurate with the respective institutional staffing titles.	Implemented.
9	KNH to enter into mediation with Samuel Kimani Wachira with a view of compensation and report to the MP&DB within 60days	In-progress.

4. RULING OF THE NURSING COUNCIL OF KENYA DATED 13TH APRIL 2018

NO	ORDERS	ACTION TAKEN
1	KNH to immediately develop, formulate and review SOPs on patient safety goals, specifically on patient identification, communication, handing over procedures, time outs and site identification.	i) The SOP at the time of the incident on Patient Safety provided that patient identification to be done in reference to the Nursing Council Manual on Pre-Operative Care. The review of SOPs on all other service levels currently under review. ii) Developed SOP on handing over procedures of patients by nursing personnel during shift change, with a mandatory requirement that the floor manager must acknowledge receipt of the handing over report and be responsible for the same.
2	KNH to ensure that documentation of care given to patients is duly signed by the respective health professionals who provided care clearly showing when various interventions were invoked.	Adherence of complete documentation on patient management enforced.
3	KNH to ensure availability of charts used to record vital signs, head injury charts, triage sheets, pre-operative checklist and other such documents are in each patient file	
4	KNH to recruit nurses and submit to the Council a nurses' recruitment plan with a glide path to accomplishing the required nurse to patient ratios as set out in Section II, Standard 5.5 of the Standards of Nursing Education Practice for Nurses in Kenya as follows: • General medical wards 1:6 • General surgical wards 1:5 • Labour wards 1:5 • Critical Care Unit 1:1 • Paediatric wards 1:5	Report on Human Resource Gaps enclosed.

6. DECISION OF THE CLINICAL OFFICERS COUNCIL DATED 10TH APRIL 2018

NO	RECOMMENDATIONS	ACTION TAKEN
1	All patients for theatre should be reviewed by the responsible surgical team before theatre	Strict adherence to physical review of patients at the wards by the surgical team prior to surgery.
2	Human resource should be improved so that all cadres are able to work without being overstretched	Report on Human Resource Gaps enclosed.
3	SOPs should be provided, implemented, monitored and evaluated	i) SOPs for all service levels under review with proper reference ii) Strict enforcement and monitoring of SOPs.
4	All staff to be inducted to the available tools.	All staff to be orientated on the reviewed and newly developed SOPs.
5	Reinforce supervision at all levels	Supervision at all levels enhanced.
6	Identification of patients should be relooked into to make it digital at first contact with patient and at every stage.	i) Initiated taking of photographs of confused unconscious, mentally ill, paediatric and elderly patients as well as unique patient identification tags. ii) Management has ensured that the Business Process Re-engineering incorporates a biometric system of identification of patients, and monitoring of patients.
7	WHO surgical safety checklist should be reviewed to be customized and expanded to accommodate the unconscious and mentally disturbed patients.	Developing SOP on identification of confused, unconscious, paediatric, mentally ill and elderly patients.

Annex 4

2. DATA SUPPORTING THE ESTABLISHMENT OF CHEMOTHERAPY CENTRES

Based on data from Kenyatta National Hospital which is the main public comprehensive cancer treatment centre, the table below gives a breakdown of cancer cases by County

MURANGA		KIAMBU		SIAYA		KILIFI	
CERVIX	67	BREAST	82	CERVIX	33	CERVIX	5
BREAST	60	CERVIX	80	BREAST	18	ESOPHAGUS	5
OESOPHAGUS	35	OESOPHAGUS	35	BONE MARROW	10	BREAST	3
STOMACH	21	LEUKAEMIA	32	PROSTAE	9	LYMPNODE	3
LARYNX	19	STOMACH	27	NASO PHARYNX	8	LARYNX	3
PROSTATE	15	LYMPHOMA	21	SKIN	7	BONE MARROW	2
LYMPHOMA	11	SKIN	19	COLON	6	GUM	1
LEUKAEMIA	9	PROSTATE	17	ESOPHAGUS	5	TESTIS	1
BONE	9	NASOPHARYNX	16	LYMPHNODE	5	EYE	1
ENDOMETRIUM	9	COLON	15	KIDNEY	3	KIDNEY	1
	255		**344**		**104**		**25**

MARSABIT		MACHAKOS		NYAMIRA		MIGORI	
BREAST	2	CERVIX	56	CERVIX	7	CERVIX	10
VULVA	1	BREAST	46	PROSTATE	6	BREAST	5
LYMPHOMA	1	SKIN	13	BREAST	3	MOUTH	4
GASTROINTESTINAL	1	LYMPHOMA	13	ESOPHAGUS	2	BONEMARROW	2
THROID	1	PROSTATE	10	EYE	1	SKIN	2
BRAIN	1	OESOPHAGUS	10	BONEMARROW	1	LUNG	1
LIVER	1	LEUKAEMIA	10	RECTUM	1	STOMACH	1
PROSTATE	1	BONE	8	SKIN	1	THYROID	1
LEUKAEMIA	1	EYE	6	BRAIN	1	GALLBLADDER	1
OESOPHAGUS	1	LIVER	6	STOMACH	1	BONE	1
	11		**178**		**24**		**28**

NAKURU		HOMABAY		BOMET		KERICHO	
CERVIX	40	CERVIX	16	BONEMARROW	3	BRAIN	3
BREAST	32	BREAST	7	ESOPHAGUS	2	BREAST	3
LYMPHNODE	13	NASOPHARYNX	4	VULVA	1	NASOPHARYNX	3
BONEMARROW	12	ESOPHAGUS	4	COLON	1	EYE	2
SKIN	8	PROSTATE	3	MOUTH	1	VULVA	1
COLON	8	EYE	2	OVARY	1	RECTOSIGMOID	1
ESOPHAGUS	7	TONGUE	2	BRAIN	1	MOUTH	1
THYROID	6	SKIN	2	SOFT TISSUE	1	SOFT TISSUE	1
STOMACH	5	VULVA	1	THYROID	1	LARYNX	1
EYE	4	ENDOMETRIUM	1	PROSTATE	1	LYMPHNODE	1
	135		**42**		**13**		**17**

NYANDARUA		MAKUENI		TAITA		MOMBASA	
BREAST	18	CERVIX	24	CERVIX	3	CERVIX	21
CERVIX	17	BREAST	13	BREAST	3	BREAST	9
BONEMARROW	11	BONEMARROW	9	ESOPHAGUS	3	BONEMARROW	7
STOMACH	8	PROSTATE	7	LARYNX	2	LYMPNODE	6
PROSTATE	8	LYMPHNODE	6	TESTIS	1	LIVER	4
ESOPHAGUS	8	BONE	5	BRAIN	1	LARYNX	3
SKIN	5	LARYNX	5	ENDOMETRIUM	1	NASOPHARYNX	3
EYE	5	NASOPHARYNX	4	BONEMARROW	1	MOUTH	2
LYMPHNODE	4	OVARY	4	RECTOSIGMOID	1	TOUNGUE	2
THYROID	4	LIVER	4	MOUTH	1	ESOPHAGUS	2
	88		81		17		59
ISIOLO		**TRANS NZOIA**		**SAMBURU**		**BUSIA**	
ESOPHAGUS	3	BREAST	2	CERVIX	2	CERVIX	2
BREAST	2	PROSTATE	1	EYE	2	BREAST	2
KIDNEY	2	EYE	1	NASO PHARYNX	1	LYMPNODE	2
CERVIX	1	LYMPHNODE	1	BONE MARROW	1	SKIN	2
HYPOPHARYNX	1	LARYNX	1	LUNG	1	VULVA	1
TONGUE	1	LUNG	1	ESOPHAGUS	1	NASOPHARYNX	1
OVARY	1	THYROID GLAND	1	RECTUM	1	SINUSES	1
PROSTATE	1	NASAL CAVITY	1	SKIN	1	ENDOMETRIUM	1
RECTOSGMOID	1	ENDOMETRIUM	1	LYMPNODES	1	SOFTTISSUE	1
STOMACH	1	BONES	1	VAGINA	1	COLON	1
	14		11		12		14
LAIKIPIA		**NANDI**		**NAROK**		**VIHIGA**	
CERVIX	9	THYROID	2	CERVIX	4	CERVIX	12
BREAST	7	BREAST	1	NASOPHARYNX	2	NASOPHARYNX	3
BONEMARROW	6	EYE	1	BONES	2	PROSTATE	2
LYMPHNODE	5	PROSTATE	1	SKIN	2	SKIN	2
ESOPHAGUS	5	LUNG	1	BREAST	1	ESOPHAGUS	2
OVARY	4	ESOPHAGUS	1	KIDNEY	1	BREAST	1
NASOPHARYNX	4	CERVIX	1	ESOPHAGUS	1	STOMACH	1
EYE	3	NASOPHARYNX	1	SOFTTISSUE	1	KIDNEY	1
GALLBLADDER	2	HYPOPHARYNX	1	PERITONIUM	1	ENDOMETRIUM	1
LUNG	2			SKIN	1	SKIN	1
	47		10		16		26
ELGEYO MARAKWET		**TANA RIVER**		**LAMU**		**KWALE**	
NASOPHARYNX	1	CERVIX	2	BRAIN	2	ESOPHAGUS	3
BONEMARROW	1	PROSTATE	2	BREAST	1	CERVIX	2
COLON	1	BONE	2	SKIN	1	BLADDER	1
	3	ESOPHAGUS	1	STOMACH	1	MOUTH	1

		BONE	1	LIVER	1	GUM	1
		EYE	1	LYMPNODE	1	NASOPHARYNX	1
			9	BONEMARROW	1		9
				ESOPHAGUS	1		
					9		
BARINGO		**WEST POKOT**		**KWALE**			
EYE	3	LYMPNODES	1	ESOPHAGUS	3		
NASOPHARYNX	2	SOFTTISSUE	1	CERVIX	2		
CERVIX	1	EYE	1	BLADDER	1		
THYROID	1		3	MOUTH	1		
KIDNEY	1			GUM	1		
STOMACH	1			NASOPHARYNX	1		
	9				9		

3. DETAILS ON PROCUREMENT OF CT – SCANNERS BY MINISTRY OF HEALTH

Article 43 of the 2010 Constitution of Kenya on the Bill of Rights guarantees every Kenyan the right to the highest attainable standards of health. Moreover, in the Vision 2030, Kenya aspires to become a globally competitive middle-income country by 2030, and therefore reemphasizes the need for a healthy nation to spur sustainable economic growth. An effective health care system that offers high quality health care is a prerequisite for rapid national socio-economic development. In response to supporting development of the health systems, the health sector through the Kenya Health Policy 2014-2030 intends to contribute to the realization of this health goal by deliberately building progressive, responsive and sustainable technologically-driven and evidence-based client-centered health systems.

The 4th strategic objective of the Kenya Health Sector Strategic & Investment Plan (KHSSP) 2014-2018 includes a large set of personal health interventions that are aiming to improve the access and quality of care of individuals seeking health care. The health services proposed ranges from emergency, maternity, reproductive health, inpatient, clinical laboratory, outpatient, radiology, surgery, rehabilitation among other specialized services. A key policy objective in the above-mentioned investment plan is the infrastructure development and equipping of health facilities.

The Ministry is cognizant of its role and mandate within the devolved system of government in providing health sector policy guidance, strengthening of referral facilities, capacity building and technical support. Towards this end, the Ministry, in consultation with the County Governments, has embarked on the process of strengthening the referral systems at both national and county levels to ensure that there is increased access to quality specialized and diagnostic healthcare services for all the population through flagship / priority projects like the Managed Equipment Services (MES) programme.

Radiology is one of the key diagnostic services in any healthcare system. It is a major specialty in the management of diseases and has an important role in monitoring treatment as well as predicting outcome. The Ministry of Health in collaboration with the County Governments has installed digital imaging equipment in select facilities through various projects:

a. A variety of radiology modalities (General X-ray / Mobile x-ray units, OPG, Mammography, ultrasound & C-arms) have been installed in at least two hospitals in all the 47 counties across the country through the Managed Equipment Services (MES) Project.
b. MRIs are now available in 20 public facilities through the recently completed MRI project implemented by the National Government.

CT Scanners are an integral and critical component of patient management especially in the emergency department. There is a serious shortage of Computed Tomography (CT Scan) services in the public sector. The shortage is most marked in the rural areas and is compounded by non-functional equipment in some of the facilities where the modality is available. Currently, Kenya has an average CT Scanners installation base of about 2.2 scanners per one million population (a total 90 CT Scanners spread out in the Private sector, Faith Based Organizations (FBOs) and a few in Public sector. All the 90 CT Scanners are only in 25 counties. Of the 90 CT Scanners in the country, only 18 low capacity machines are in public hospitals; thinly spread out in only 16 of the 47 counties. Worse still, approximately a third of the 18 CT Scanners in the public hospitals are not functional.

Access and quality are critical pillars in Universal Health Care (UHC), the major Government health agenda in the next 4 years. The CT Scan project aims to:

- Simultaneously accelerates the realization of making Kenya a regional hub for health tourism in line with our Vision 2030.
- Address challenges of communicable diseases, and emerging non-communicable conditions such as cancers, kidney diseases and injuries through improving access to modern and specialized diagnostic Computed Tomography (CT Scan) equipment in level 5 and 6 health facilities.
- Improve health care workers knowledge through training on specialized care (a major priority of the two levels of Government). In the last two years, and as part of their role under the MES project, we are glad to note that counties across the country have through their respective county public service boards recruited more imaging staff.
- Improve the health facilities infrastructure and Leverage on and complimenting information technology currently in place through the Managed Equipment Services (MES) project, the two levels of Government will ensure that all citizens, regardless of location, have access to uninterrupted, quality, specialized imaging healthcare services.

The major social benefit the project will achieve is the comprehensive continuum of health care accessible to all Kenyans across the country. The Service Quality Benefits will include:

- Increased efficiency in the hospital as the CT scan technology is able to make fast and accurate diagnosis. This will help our clinicians manage the increasing burden of non-communicable diseases like cancer and trauma from road traffic accidents.
- Reduced Equipment downtime due to inclusion of maintenance and service throughout the five (5) years life of the contract.
- Reduce patient referrals to Kenyatta National Hospital and Moi Teaching and Referral Hospital and minimize congestion at both hospitals.

Financial Benefits

- additional revenue stream from the services being provided accruing to the Facilities / Counties. NHIF under their radiology cover compensate facilities for CT

scan services. The monies collected will be ploughed back for facility improvement to sustain the services for continuous improvement of quality of care.

- Value for money – increase in number of CT scanners available will lead to reducing the cost of CT Scanners services in the country. Cheaper CT scanner services will reduce the high out of pocket expenditure currently paid out for the CT scanner services in the private sector. This will contribute in minimizing the number of people below the poverty line that are pushed annually below the poverty line whenever there is sickness in the family requiring such services. Although detailed expenditure analysis has not been undertaken, the likely overall impact on the reduction of out of pocket expenditure by households with subsequent family savings cannot be underestimated.

Employee Benefits

- Increased employee satisfaction because staff are expected to upgrade their skills through the training to be offered as part of the project. The project is also envisaged to improve the work environment for the staff working in the CT scan service delivery areas
- Greater focus on delivery of highest attainable diagnostic imaging services

Patient Benefits

- Enhanced diagnostic capabilities
- Better clinical outcomes with more focused patient services

Justification of Procurement of CT Scanners through a Government to Government loan arrangement and not Managed Equipment Services (MES) Programme

The procurement of CT-Scan is a Government to Government arrangement, and the administration and management of the CT Scan services provision is similar to the MES in that;

- The procurement is through an Original Equipment Manufacturer (OEM) which guarantees quality.
- Access to CT Scan equipment requires very high capital outlay. The loan provided by the funding government will be repaid after 1-year grace period with biannual payment for the next five years. The interest rate is at 2.5% as opposed to high

interest rate of above 9% used in the open market. The G2G loan arrangement therefore guarantees value for money similar to MES arrangement.

- The Government to Government interest rate of 2.5% and libor of 0.5% adding up to 3% as opposed to business loan which has an interest rate of 9% plus libor adding to 10%
- The provision of service is guaranteed for the 5 years contract period hence improved uptime and reduced downtime.
- The cost of the equipment includes the 5 years life cycle cost including ;
    - New infrastructure development
    - Backup standby generator
    - Installation and commissioning
    - Interconnectivity and cloud computing of all sites
    - Training
    - 5 years Life cycle Maintenance
    - Provision of spare parts
    - After lifecycle decommissioning and disposal
- Maintenance of up-to-date technology as update and upgrades are inbuilt in the contract
- Risk transfer from the client to the contractor throughout contract period as the insurance of the equipment is the mandate of the Contractor.
- There will be Improved access of medical care by the public throughout the country
- Guaranteed uptime throughout the equipment life cycle
- Guaranteed safe disposal of the equipment at the end of the life of the equipment
- Because of built-in connectivity and common network for all the CT-scans, there will be improved reporting and shared resource through telemedicine tele-radiology.

- The project is a Turnkey project and BOT. It includes ICT connectivity and cloud imaging as opposed to MES where one has to procure ICT component

- The project is insured and includes 3rd party insurance by Sinosure (Government agent for China) for the life of the project. It secures both the Country and the end users.

Components and Costing of the Project

NO	ITEM	UNIT COST	QUANTITY	TOTAL COST
1	(a)CT Scan equipment-64 Slice (Equipment installation, Training on site and Commissioning)	576,923	36	20,769,228.00
	(b)CT Scan equipment-128 slice (Equipment installation. Training on site and commissioning)	734,000	1	734,000.00
2	(a)Five (5) year maintenance and service including spare parts and warranty for parts spare parts for 64 slice CT and Labor warranty	800,000	36	28,800,000.00
	(b)Five (5) year maintenance and service including spare parts and warranty for parts for 128 slice CT and Labor warranty	425,000	1	425,000.00
3	Cloud Imaging Software, Trainings and Commissioning on site (37 sites)	2,000,000	1	2,000,000.00
4	(a)CT Accessory-Dual Head Compatible Injector pump plus disposable syringes	28,000	37	1,036,000.00
	(b)TLD (With 1000 cards for each set)	750,000	2 Sets	1,500,000.00
	(c)UPS 120KVA (36) and 150 KVA (1).5years maintenance	2,407,679	1	2,407,679.00
	Lead Glass (1200*800*15mm (37)	233,000	1	233,000
	Image Printer (37)5 years maintenance	200,000	37	200,000
5	Factory Trainings(Radiologist/Radiographers). Continuous Training at local training centre for 5 years	4,500	37	166,500
6	(a)Support Equipment-Stand by Generators (37) with automatic change overs.5years warranty with diesel top up 5years	30,769	37 pieces	1,138,453.00
	(b)Air Conditioners for 5 rooms (24,00 BTU) warranty 5years	13,462	37 sets	498,094.00
	(c)Medical furniture for all rooms 5years warranty. Furniture and computers for cloud imaging centre. 1Centre	8,654	37 sets	320,198.00
7	Site Construction Charges (Survey, Design, Tests, Licenses, Approvals, IT infrastructure and Internet connectivity and CCTV services for Five (5) years). Construction for 1cloud imaging Centre 5years guarantee. (Marine	269,230	37	9,961,510.00

	Insurance)			
8	INSURANCE COVER i.e. Fidelity guarantee, 3rd party public liability, Electronic cover, Erection cover, Professional indemnity and goods in transit. CUSTOMS clearance and Local Transportation (1.5%of Total Invoice)	2,502,011	1	2,502,011.00
9	Taxes and Duty (GOK Fee-2.25%of total invoice, Railway levy-1.5% of total invoice, Pharmacy and Poisons board-0.75% of total invoice, VAT- 16% of total invoice Duty where applicable, Radiation board 1%	11,452,064. The amount of Taxes is Provisional and subject to customs valuation upon arrival of goods plus or minus	1	11,452,064
TOTAL				84,143,737.00

Peter K. Tum, OGW
PRINCIPAL SECRETARY
June 25, 2018