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REPUBLIC OF KENYA



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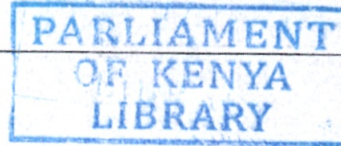
PARLIAMENT

OFFICE OF THE CLERK OF THE SENATE/ SECRETARY PARLIAMENTARY SERVICE COMMISSION

Ref. SEN./13/2/PETITIONS/No. 091/2023

13th July, 2023

The Petitioners,
C/o Sen. Samson Cherarkey, MP,
Parliament Buildings,
NAIROBI.



Dear *Sam*

RE: PETITION TO THE SENATE CONCERNING THE UNFAIR
TREATMENT OF THE COVID HEALTH EMERGENCY
RESPONSE PROJECT (CHERP) STAFF AFTER THE PANDEMIC

This is to acknowledge, with thanks, receipt of your Petition on the above subject matter.

Upon review of the Petition, this is to note that the prayers in the Petition relate to a similar Petition that had earlier been submitted to the Senate and referred to the Standing Committee on Labour and Social Welfare for consideration on Wednesday, 22nd March, 2023.

We have therefore forwarded the concerns in the Petition to the aforementioned Standing Committee for consideration.

Ms. Mwanate Shaban, Senior Clerk Assistant, (Tel No: 0726953257) and (Email:mwanate.shaban@parliament.go.ke) is the Committee Clerk and may be reached for any further liaison pertaining to this matter.

Yours

Sincerely,

J. M. Nyegenye

J. M. NYEGENYE, CBS,
CLERK OF THE SENATE,
PARLIAMENTARY SERVICE COMMISSION.

Copy to: Sen. (Rev) Recha Julius Murgor, MP,
Chairperson, Standing Committee on Labour and Social Welfare.
Parliament Buildings,
NAIROBI.

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APPROVED
RT. HON. SEN
AMASON J. KINGI

REPUBLIC OF KENYA



THE SENATE

Rt. Hon. Speaker
Recommended for approval
for tabling.

12/10/23

THIRTEENTH PARLIAMENT | SECOND SESSION

STANDING COMMITTEE ON LABOUR AND SOCIAL
WELFARE

REPORT ON THE PETITION BY DR. DAVID BHIMJI ATELLAH
AND OTHERS ON UNFAIR TERMS AND CONDITIONS FOR
UNIVERSAL HEALTH COVERAGE STAFF AND DELAY IN
INTERNSHIP POSTING CONJOINED WITH THE PETITION ON
UNFAIR TREATMENT OF THE COVID HEALTH EMERGENCY
RESPONSE PROJECT (CHERP) STAFF BEYOND THE
PANDEMIC

PAPERS LAID	
DATE	17/10/2023.
TABLED BY	Vice Chair.
COMMITTEE	Labour.
CLERK AT THE TABLE	<i>[Signature]</i>

Clerk's Chambers,
The Senate,
Parliament Buildings,
NAIROBI.

September, 2023

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ABBREVIATIONS AND ACRONYMS

APHOK - Association of Public Health Officers

CECM – County Executive Officer of Health

CHERP- Covid Health Emergency Response Project

CoG – Council of Governors

IIPD – Integrated Payroll and Personnel Database

KHPS - Kenya Health Professional Society

KMPDU - Kenya Medical Practitioners and Dentists Union

KNH - Kenyatta National Hospital

KUCO - Kenya Union of Clinical Officers

KUNAD - Kenya Union of Nutritionists and Dietitians

MoH – Ministry of Health

P & P - Permanent and Pensionable

PSC – Public Service Commission

SRC – Salaries and Remuneration Commission

UHC - Universal Health Coverage

PRELIMINARIES

Establishment and Mandate of the Committee

Standing Committee on Labour & Social Welfare is established pursuant to standing order 228 of the Senate Standing Orders. The Committee is mandated to consider all matters related to - *Manpower and human resources planning, pension, gender, culture, and social welfare; youth, National Youth Service, children's welfare; national heritage, betting, lotteries, sports, public entertainment; public amenities, and recreation.*

The mandate of the Committee spans three ministries: the Ministry of Labour and Social Protection, Public Service, the Ministry of Gender and Affirmative Action, and the Ministry of Youth Affairs, Sports, and the Arts. The Committee also oversees the following state departments: the State Department of Culture and Heritage under the Ministry of Tourism, Wildlife, and Heritage, the State Department of Diaspora Affairs under the Ministry of Foreign and Diaspora Affairs, and the Pensions Department under the National Treasury.

Membership of the Committee

The Committee membership is as follows: -

- (1) **Sen. Julius Murgor Recha, MP - Chairperson**
- (2) **Sen. George Mungai Mbugua, MP - Vice Chairperson**
- (3) Sen. (Rtd.) Justice Stewart Madzayo, CBS, MP - Member
- (4) Sen. Mohamed Faki Mwinyihaji, MP - Member
- (5) Sen. Erick Okong'o Mogeni, SC, MP - Member
- (6) Sen. Alexander Munyi Mundigi, MP - Member
- (7) Sen. Crystal Kegehi Asige, MP - Member
- (8) Sen. Miraj Abdullahi Abdulrahman, MP - Member
- (9) Sen. Gloria Orwoba, MP - Member

CHAIRPERSON'S FOREWORD

The report on the petition on unfair terms and conditions for the Universal Health Coverage (UHC) staff and delay in internship posting conjoined with the petition on unfair treatment of the Covid Health Emergency Response Project (CHERP) staff beyond the pandemic is a consolidated reporting of the two petitions. The amalgamation of the report results from the similarity in content and the emerging policy concerns.

The Petition on unfair terms and conditions for the UHC staff and the delay in internship posting was presented to the Senate on 22nd March 2023 by Sen. Samson Cheragey MP, Senator for Nandi, on behalf of the Health Sector Unions, Associations, and Societies.

The petition concerns the contractual health workers employed under the UHC program. The staff whose contract was to expire after three years in May 2023, earn a consolidated salary lower than their counterparts despite working in the same environment. Further, they are subject to other discriminatory terms like inadequate or non-existent risk allowance. The petitioners also raised issues concerning the delayed postings for internships, particularly for clinical officers since December 2022;

The petitioners pray that the Senate—

- (i) investigates the issues raised and intervenes on the matter of discrimination and unfair remuneration of health workers;
- (ii) makes recommendations on such programs, including the adequacy of resources, better terms of engagement, and
- (iii) recommends appropriate measures for such programs, including internship posting of health workers.

While processing the above petition, the Committee was ceased of the petition on the unfair treatment of the CHERP health workers, signed by Sen. Samson Cherarkey, MP on 13 July 2023. The petition was counter-signed by seven (7) affected health workers under the program. The petition draws the attention of the Senate to the fact that Ministry of Health (MOH) failed to renew the contracts of health workers employed to fight the COVID-19 pandemic across the country under the CHERP project. Further, the petitioners argue that the Ministry has so far renewed the contract of their counterparts under UHC for one year and that MoH also employed the Ebola outbreak front-line workers, on P&P terms after the containment of the pandemic.

The petitioners pray that the Senate intervenes to compel the MoH: –

- i. Renew the contract for the CHERP health workers as is the case for the UHC program;

- ii. Absorb the CHERP health worker into P&P as was the case for the ebola front-line workers and
- iii. Consolidate the CHERP health workers with the UHC ones.

The Committee held stakeholder engagements on the Petitions on 24th April, 18th May, 20th June, 11th July, and 3rd August 2023. The engagements were with the petitioners who included representatives across the health profession, Ms. Lyn Mengich, the Chairperson, Salaries and Remuneration Commission (SRC), Dr. Evanson Kamuri, the CEO of KNH, and Public Service Commission (PSC) representatives. Others were Ms. Nakhumicha Wafula, Cabinet Secretary, Ministry of Health, and H.E. Senator Johnson Sakaja, the Chairperson of Human Resource, Labour, and Social Welfare Committee of the Council of Governors.

The Committee observes that the petition raises weighty policy issues related to health financing and the health workforce. Health financing is the underlying factor for the two petitions. Health financing and workforce are critical policy orientations of the health sector in the health sector and drive the agenda of Kenya Health Policy 2014-2030. In this respect, while the two petitions bring out a labor component, they will be effectively addressed from a health perspective due to their health policy inclination.

The Committee also observed that addressing the concerns raised in both petitions calls for deliberate intention to do so by all stakeholders at both levels of government. This is because of the counterclaims observed during the deliberations. The Ministry argues that transition requires an additional Ksh 3.0 billion and encourages county governments to absorb health workers during recruitment. On the other hand, the CoG decries shortage of funding with calls to the national government to provide conditional grants to County governments to cater for the extension of the contracts.

The Committee therefore believes the ongoing operationalization of several health policies is the way to sustainable interventions for persistent, recurring concerns related to health workers. Specifically, Section 30 and 31 of the Health Act 2017 provides for the Kenya Health Human Resource Advisory Council. It mandates that the Council review policies and establish uniform norms and standards, including some of the issues raised in the petition. For instance, posting interns to national and County Governments; intercounty transfer of health professionals, transfer of healthcare professionals from one level of government to the other; the welfare and scheme of service for health professionals; management and rotational of specialists and the maintenance of the master register of all health practitioners in the counties.

Further, operationalizing the National Internship Coordination Committee as defined in the 'Policy For Health Sector Professional 2020' and the 'Internship Policy and

Guidelines 2022' will give clarity to the management of the health sector internship programs.

The Committee therefore recommends as follows:-

- i. *The Council of Governors* to prioritize health workers under the UHC program, CHERP, and other health workers who have served before on contractual terms while recruiting health workers on permanent and pensionable terms pensionable within six months of tabling of this report;
- ii. *Ministry of Health*, in collaboration with the multi-agency task force, prioritizes and finalizes the modalities of the UHC staff transition from contractual to permanent and pensionable within six months of tabling of this report;
- iii. *Ministry of Health*, in collaboration with the Ministry of Education, to develop a road map (including projections) to synchronize the training component and service delivery of the health workforce across all cadres in a bid to streamline service delivery and
- iv. *Ministry of Health* provides adequate resources in the annual budget estimates for operationalizing the Kenya Health Human Resource Advisory Council and National Internship Coordination Committee. Resourcing these critical institutions will ensure they discharge their legal mandate of offering policy guidelines for managing health workers.

The Committee submits the report as its response to the petitioners pursuant to section 5(3) of the Petition to Parliament Act and Standing Order 232 (2) of the Senate Standing Orders.

The Committee extends its appreciation to parties who volunteered submissions and contributions to the resolution of this matter. I also wish to express my appreciation to my fellow Senators for their contributions on this matter.

The Committee thanks the Office of the Speaker of the Senate and the Clerk of the Senate for the support extended to the committee in the execution of its mandate.

It is now my pleasant duty pursuant to Standing Order 232 (2) to table this report of the Standing Committee on Labour and Social Welfare on the petition by Dr. David Bhimji Atallah and others on unfair terms and conditions for Universal Health Coverage Staff and delay in internship posting, conjoined with the Petition on unfair treatment of the Covid Health Emergency Response Project (Cherp) Staff beyond the pandemic

Signature.......... Date.....*2nd September, 2023*.....

SEN. JULIUS MURGOR RECHA, MP.
CHAIRPERSON, LABOUR AND SOCIAL WELFARE COMMITTEE

CHAPTER 1: INTRODUCTION

1.1 THE PETITION

1. The report on the petition on unfair terms and conditions for the Universal Health Coverage (UHC) staff and delay in internship posting conjoined with the petition on unfair treatment of the Covid Health Emergency Response Project (CHERP) staff beyond the pandemic is a consolidated reporting of the two petitions. The amalgamation of the report results from the similarity in content and the emerging policy concerns.
2. The petition on unfair terms and conditions for the UHC staff and the delay in internship posting was presented to the Senate on 22ND March 2023 by Sen. Samson Cheragey, MP, Senator for Nandi, on behalf of the Health Sector Unions, Associations, and Societies.
3. This petition is counter-signed by the following officials, who represent the various health professionals in the sector: Mr. Davji Atela, Secretary General, Kenya Medical Practitioners, Pharmacists and Dentists Union (KPMDU); Mr. George Kibore, Secretary General, Kenya Union of Clinical Officers (KUCO); Mr. Pius Nyakundi, General Secretary, Kenya National Union of Medical Laboratory Officers; Mr. Elias Mutuma, General Secretary, Kenya National Union of Pharmaceutical Technologists and Officers; Mr. Michael Ouma, General Secretary, Kenya Union of Nutritionists and Dieticians; Mr. Peter Ayieko, General Secretary, Kenya National Union of Biomedical Engineers of Kenya; Mr. Samuel Karanja –Secretary, Society of Radiography in Kenya (SORK); Mr. Moses Lore – Secretary General, Kenya Health Professional Society and Mr. Mohamed Duba – Secretary General, Association of Public Health Officers Kenya (APHOK).
4. The petition raises the following concerns –
 - i. The recruitment of health workers on a one-year Universal Health Coverage internship contract to boost efforts to achieve Universal Health in different counties. In normal circumstances, health workers serve on permanent and pensionable terms;
 - ii. Despite their contractual employment terms, the Ministry issued the health workers that health workers with personal numbers;

- iii. The UHC health workers employed under the UHC terms earn a consolidated salary that is lower than their counterparts despite working in the same environment and
 - iv. Posting for internship due in December 2022; the impact of the delays on the profession as a medical internship is a legal requirement and a prerequisite for licensure and independent practice.
5. The petitioners pray that the Senate—
- i. investigates the issues raised and intervenes on the matter of discrimination and unfair remuneration of health workers;
 - ii. makes recommendations on such programs, including the adequacy of resources, better terms of engagement, and
 - iii. recommends appropriate measures for such programs, including internship posting of health workers.
6. The Committee ceased the petition on the unfair treatment of the CHERP health workers on 13 July 2023. Senator Samson Cherakey, MP for Nandi County, signed the petition. The petition was counter-signed by the following citizens of Kenya: Ms. Doreen Orina ID. No. 33090539, Ms. Rebecca Nyabuto ID No.28099280, Mr. Billy Klaliwe ID. No. 32448115, Mr. Kevin Kiarie ID. No. 29439892, Mr. Isaac Omwenga, ID. No. 29713570 and Ms. Sophia Kitui, ID 30454644.
7. The Petition draws the attention of the Senate to the following issues. THAT-
- i. The MOH failed to renew the contracts of health workers employed by the MoH to fight the COVID-19 pandemic across the country under the CHERP project;
 - ii. The health workers served patients diligently and in risky circumstances in isolation centers, testing facilities, and ports of entry;
 - iii. The health workers expected that upon the expiry of the contract, they would be considered for absorption into P&P terms;
 - iv. The non-renewal of terms comes at a time when MoH has allocated Ksh 3.7 billion in the 2023/24 approved budgets towards Kenya Covid 19 Emergency Response;
 - v. The government failed to recognize their efforts during Covid and the selfless contribution they made during the pandemic;
 - vi. Their UHC counterparts employed to build capacity across the health sector have had their contracts renewed as of 31 May 2023 vide a memo MoH/ ADM/Vol/II/58
 - vii. The MoH also employed the Ebola outbreak front-line workers on P&P terms after the containment of the pandemic and

- viii. The Constitution disallows discrimination in the recruitment process, training, promotion, terms, and conditions of employment, termination of work, and other employment-related matters.
8. The petitioners pray that the Senate intervenes to compel the MoH: –
 - i. Renew the contract for the CHERP health workers as is the case for the UHC program;
 - ii. Absorb the CHERP health worker into P&P as was the case for the ebola front-line workers and
 - iii. Consolidate the CHERP health workers with the UHC ones.

1.2 BACKGROUND

9. This section gives details of the UHC health workers program, the Internship program under the MoH¹, and the CHERP program. This section seeks to clarify the differences between the UHC program, the CHERP program, and the other health workers in the public service in terms of recruitment, terms, and contractual conditions.

1.2.1 About Universal Health Coverage Health Workers Programme and Internship Programs under MoH

10. The UHC workers are a group of health workers recruited in April 2020 under a one-year internship contract to boost efforts to achieve Universal health and aid in the fight against the COVID-19 pandemic. The group was, however, released a year later despite the issuance of personal numbers.
11. Following the onset of the COVID-19 pandemic, in June 2020, the Ministry of Health employed about 9,000 on a three-year UHC contract to serve in different county governments across the country;

1.2.1.1 Recruitment of UHC Workers

12. The PSC facilitated the recruitment of the UHC workers through a centralized advertisement in two phases. Phase one involved advertising five thousand five hundred (5,500) health workers for the Counties under the program for 9 (nine) cadres of health personnel on a three-year contract based on identified needs across the two levels of government. The remuneration was a consolidated

¹ Source: Submission by the Public Service Commission (PSC) on 18 May 2023 and 22 May 2023

package of Ksh 50,000 for Diploma holders and Ksh 40,000 for certificate holders.

13. Further, during phase two, 4,308 vacancies were advertised- for health workers for the Counties under the UHC. The respective Counties processed the applications for those counties with operational County Public Service Boards (CPSB). However, PSC processed applications for counties with non-operational PSB (i.e., Kitui, Kiriyaanga, and Mombasa), including the Nairobi Metropolitan Services, appointing 362 successful candidates—a further hundred ninety-five (195) to the National Health Facilities.
14. The number of health workers under the UHC currently stands at 8,571 due to natural attrition.

Terms and Conditions of Service for UHC Workers

15. The employment of public officers, including UHC health workers, is provided for under the general policies, guidelines, regulations, and rules governing appointment, terms, and remuneration.
16. Broad categories of appointment are (a) on permanent and pensionable terms (P & P) and apply where vacancies exist in the P&P establishment; (b) appointment on contract, also called the Local Agreement Terms. In this case, the establishment is contractual, and positions cannot be filled on P & P terms as vacancies exist in the non-pensionable establishment, for instance, development projects, programs, and offices in transition. In this case, candidates serve on Contract/ Agreement Terms for a specified period with a possible renewal, extension, or non-renewal clause. The UHC health workers fall under the category (b) of appointment on contract, also called the Local Agreement Terms.

Contracts of UHC Health Workers.

17. Health workers engaged under the UHC program serve at level three and four hospitals across the country, with the program's objective being to strengthen health service delivery to citizens following the expansion of health facilities.
18. The contracts for the UHC health workers lapse in June 2023
19. The UHC staff contracts were renewed for a further one-year term In June 2023 under the same terms and conditions. The PSC approved the one-year renewal pending further stakeholder consultations on their terms and conditions.

1.2.2 The COVID-19 Health Emergency Response Project (CHERP)²

20. COVID-19 Health Emergency Response Project (CHERP) is a program driven and funded by the national government but with a donor component. The CHERP was approved on 2 April 2020 and became effective on 8 April 2020, with a current closing date of 21 March 2025. The CHERP's finances are through the COVID-19 Fast Track Facility, part of a Global COVID-19 Multiphase Programmatic Approach Program.
21. The project aims to support the government's efforts to prevent, detect, and respond to the threat posed by COVID-19 and strengthen national systems for public health preparedness.
22. The project development objective is to prevent, detect, and respond to the COVID-19 outbreak and strengthen national public health emergency preparedness systems. The project has seven components: (i) Medical Supplies and Equipment; (ii) Response, Capacity Building, and Training; (iii) Quarantine, Isolation, and Treatment Centers; (iv) Medical Waste Disposal; (v) Community Discussions and Information Outreach; (vi) Availability of Safe Blood and Blood Products and (vii) Project Implementation and Monitoring.
23. The rationale behind recruiting the CHERP health workers was driven by the need to ensure the government was in control regarding the spread of COVID-19 at that time.

1.2.3 The Internship Program under the Ministry of Health

24. The Internship Program under the Ministry of Health is a supervised training program administered to an intern whose objective is to enable the intern to gain experience or satisfy academic, professional, technical, occupational, or trade certification, registration, and licensing requirements.
25. The internship guidelines developed by the PSC guide the management of the internship program. The policy guidelines assist the Ministries, Departments, and Agencies in managing the program.
26. The law obligates the Ministry to provide internship opportunities for the various specialized health cadres, posting to health institutions across the two levels of

² <https://documents.worldbank.org/> retrieved on 23 August 2023

government and timely compensation (in the form of a stipend) for services offered by interns.

27. In 2021, the establishment of the interns under the Ministry of Health was viewed by PSC to nine thousand five hundred (9,500) posts as follows, with the cost implications to be borne by the MoH:-
- i. Medical Officers interns (CSG 9/ Job Group L) – 2000 posts;
 - ii. Clinical Officers (B.Sc Clinical Medicine) Interns (CSG 10/ Job Group K) – 1000 Posts;
 - iii. Clinical Officers (Diploma Holders) Interns (CSG 12/ Job Group H) – 3500 Posts;
 - iv. Pharmacists Interns (CSG 9/ Job Group L) – 800 Posts;
 - v. Nursing Officer Interns (CSG 10/ Job Group K) – 2000 Posts; and
 - vi. Dental Officers Interns (CSG 9/ Job Group L) – 200 Posts

1.2.4 The Legal frameworks underpinning the issues raised in the petition

28. The petition brings to the attention of the Committee the policies and issues related to unfair employment and treatment of employees and policies around the training and internship of doctors in the country. To this extent, reporting and recommendations on the matter rely on the provisions of the employment law, what constitutes unfair treatment of employees, the law on equal pay for equal work, and the regulations on medical internships and other policy explanations from the stakeholders.

29. Article 41 of the Constitution provides the constitutional basis of the labor law in Kenya-

(1) Every person has the right to fair labor practices.

(2) Every worker has the right—

(a) to fair remuneration;

(b) to reasonable working condition

(a) The Employment Act 2007, which defines the fundamental rights of employees, also provides the primary conditions of employment. Specifically, Section 5 provides, *among other things-*

(3) No employer shall discriminate, directly or indirectly, against an employee or prospective employee or harass an employee or prospective employee—

(a) on the grounds of race, color, sex, language, religion, political or other opinion, nationality, ethnic or social origin, disability, pregnancy, marital status, or HIV status;

(b) in respect of recruitment, training, promotion, terms and conditions of employment, termination of employment, or other matters arising from the employment.

(5) An employer shall pay his employees' equal remuneration for work of equal value...

30. Additionally, Section 5 (7) of the Employment Act, 2007 emphasizes that in any proceedings where discrimination is alleged, the employer shall bear the burden of proving that the discrimination did not take place and that the discriminatory act or omission is not based on any of the grounds specified under section 5 of the Employment Act.

31. In terms of equal pay for equal work or work of equal value, the right to equal pay for similar work or work done for the case of the UHC staff is a fundamental human right. This right is provided under Article 41 of the Constitution of Kenya. Every worker's fundamental right to equal pay for the same or similar work. This entails equal pay for doing completely different work, but based on objective criteria, of equal value.

32. Work of equal value is different in content, involving different responsibilities and requiring extra skills or qualifications. As such, the disparity in pay is allowed when there are objective differences in the value of work. Qualified employees, however, must be paid the same when they perform the same or virtually the same job in similar conditions.

33. This perspective is reinforced by Section 5(4) of the Employment Act, 2007, which provides that- *(4) An employer shall pay his employees equal remuneration for work of equal value.*

34. To reiterate the unfair treatment of employees, Article 27 of the Constitution provides the basis for this argument, urging the state to eliminate any discrimination directly or otherwise against any person on any grounds. In particular, Section 5 (2), (3), and (4) of the Employment Act provides that -

(2) An employer shall promote equal employment opportunities and strive to eliminate discrimination in any employment policy or practice.

(3) No employer shall discriminate directly or indirectly against an employee or prospective employee or harass an employee or prospective employee -

- (a) *on the grounds of race, color, sex, language, religion, political or other opinion, nationality, ethnic or social origin, disability, pregnancy, mental status, or HIV status; and*
 - (b) *in respect of recruitment, training, promotion terms and conditions of employment, or other matters arising from the employment.*
- (3) *An employer shall pay his employees equal remuneration for work of equal value.*

35. Discrimination based on any abovementioned grounds in Article 27 (4) of the Constitution is presumed unfair. However, once an allegation of such nature is made and established, the burden lies on an employer to prove that such discrimination did not occur or is justified.

36. Jurisprudence and precedence exist to test whether a claim based on unfair discrimination should succeed. A South Africa Constitutional Court in *Harksen v Lane NO and Others* in which the Court stated as follows-

At the cost of repetition, it may also be to tabulate the stages of inquiry that become necessary where an attack is made on a provision in reliance on Article 27 of the Constitution. They are-

(a) *does the provision differentiate between people or categories of people?*

If so, does the differentiation bear a rational connection to a legitimate purpose? If it does not, then there is a violation of the Constitution. Even if it holds a logical relation, it might amount to discrimination.

(b) *does the differentiation amount to unfair discrimination? This requires a two-stage analysis-*

(i) *Firstly, does the differentiation amount to 'discrimination'? Discrimination will be established if it is on a specified ground. If it is not on a specified basis, then whether or not there is discrimination will depend upon whether, objectively, the position is based on attributes and characteristics that have the potential to impair the fundamental human dignity of persons as human beings or to affect them adversely in a comparably serious manner*

(ii) *If the differentiation amounts to 'discrimination,' does it amount to 'unfair discrimination'? If it has been found to have been on a specified ground, then the unfairness will be presumed. If on an unspecified basis, injustice will have to be established by the complainant. The test of unfairness focuses primarily on the impact of the discrimination on the complainant and others in his or her situation. If, at the end of this stage of the enquiry, the differentiation is found not to be unfair, then there will be no violation....*

37. On the preceding basis, each case has to be treated separately on its merit.

38. On the issue of medical internships, Section 2 of the Medical Practitioners and Dentists Act defines an "*intern*" as a person holding a medical or dental degree or its equivalent recognized by the Kenya Medical Practitioners and Dentists Council or a person who has passed the internship qualifying examination and undergoing a prescribed period of internship in a recognized institution. Further, Section 2 of the Act defines an *internship* as a specified period of employment during which a medical or dental graduate works under supervision to fulfill registration requirements.
39. Section 6 of the Act mandates persons to present proof of completion of an internship for registration as a medical practitioner or a dentist.
40. Similarly, Section 13 of the Act mandates that each medical and dental graduate who intends to undertake internship training at the Kenya Medical Practitioners and Dentists Council in the prescribed form and upon payment of the prescribed fee for a one-year internship license.

1.3 PURPOSE OF THE PETITION

41. The petition on the UHC staff and the delayed posting of interns was considered in the Senate on 24 March 2023. During the debate, the Senate was unanimous that the underlying issues affecting health workers in the devolved units, including those under the UHC, will be resolved if –
- i. The national government deliberately fully devolves health functions; in this regard, the Senate deemed the hiring of staff by the national government on behalf of the County as unconstitutional;
 - ii. Additional resources to county government through the Division of Revenue Bill were expected in the Senate in the coming days;
 - iii. Training and capacity building of doctors are prioritized, and
 - iv. The Integrated Payroll and Personnel Database (IPPD) number.
 - v. To effectively address the issues in the petition, the Senate proposed that the Committee on Labour and Social Welfare may consider holding joint sittings with the Committee on Health.
 - vi. The petition was committed to the Standing Committee on Labour and Social Welfare in line with Standing Orders 238(1). Further, the Committee is to respond to the petitioners through a report addressed to the petitioner and a further report tabled before the Senate in not more than 60 calendar days from reading the Prayer in line with the Standing Order No. 238(2).

CHAPTER 2: CONDUCT AND PROCEEDINGS OF COMMITTEE SITTINGS

42. During the Committee sitting of 26th March 2023, the Committee resolved to invite the petitioners and the Ministry of Health. The Committee met with petitioners on the virtual platform on 24 April 2023 at 2:30 p.m. Present in the meeting were representatives from the different health professionals. Mr. Davji Atellah, Secretary General, Kenya Medical Practitioners, Pharmacists and Dentists Union (KPMDU); Mr. George Kibore, Secretary General, Kenya Union of Clinical Officers (KUCO); Mr. Pius Nyakundi, General Secretary, Kenya National Union of Medical Laboratory Officers; Mr. Elias Mutuma, General Secretary, Kenya National Union of Pharmaceutical Technologists and Officers.
43. Other practitioners present included Mr. Michael Ouma, General Secretary, Kenya Union of Nutritionists and Dieticians; Mr. Peter Ayieko, General Secretary, Kenya National Union of Biomedical Engineers of Kenya; Mr. Samuel Karanja –Secretary, Society of Radiography in Kenya (SORK); Mr. Moses Lore – Secretary General, Kenya Health Professional Society and Mr. Mohamed Duba – Secretary General, Association of Public Health Officers Kenya (APHOK) and a representation of health workers previously serving under the Covid Health Emergency Response Project.
44. The Committee met with different stakeholders to deliberate on the matter on the following dates: 18 May 2023, 20 June 2023, 11 July 2023, and 3 August 2023. On 11 July 2023, the Committee met with the SRC led by the Chairperson, Ms. Lyn Mengich. Others were Dr. Anastacia Nyalita, CECM, Nairobi County, and Kenya National Hospital (KNH) led by Dr. Evanson Kamuri, the CEO of KNH and representative of the PSC. During this meeting, the Committee heard that the PSC had approved the renewal of appointment on Local Agreement Terms for the 8571 health workers engaged under the UHC program for a further year until June 2023 to allow for consultation to facilitate their absorption on P&P terms. On their part, SRC denied offering advice on remuneration and benefits to UHC staff and interns.
45. On 3 August 2023, the Committee received submissions from the Ministry of Health, represented and led by the Cabinet Secretary, Ms. Nakhumicha Wafula, and the Chairperson of Human Resource, Labour and Social Welfare, led by H.E. Johnstone Sakaja. Present in the meetings were the petitioners representing the various unions across a majority of the cadres in the health sector. These include the KMPDU, KUCO, Pharmaceutical Technologists, KUNAD, and KEPHPU. Also present was a representation of the UHC health workers and interns.

46. The Committee heard that the MoH, in consultation with the PSC, approved the renewal of all the UHC staff contracts. However, the CoG indicated that the one-year renewal of the contract contradicts the decision made by the summit on the matter, where the latter approved a renewal period of three years.
47. In the process of the Committee's engagement with the stakeholders regarding the consideration of the petition on the unfair terms and conditions for the UHC staff, the Committee also considered the contents and policy issues raised in the petition on the unfair treatment of (CHERP) team after the pandemic. The Committee. The Committee received the petition on the unfair treatment of CHERP staff on 13 July 2023. These two petitions were enjoined as the policy issues were cross cutting.

CHAPTER 3: EMERGING ISSUES FROM THE SUBMISSIONS

48. This section highlights the emerging perspectives of the two petitions. During the Committee meetings, submissions by the various stakeholders highlighted the key concerns. Further analysis and evaluation of the submissions reveal the following three thematic issues: -

3.1 UHC, INTERNSHIP PROGRAMME AND CHERP HEALTH WORKERS IN STRENGTHENING HEALTH SERVICE DELIVERY

49. The 8571 (from 10,365) health workers serving under the UHC program, like other health workers, contribute to strengthening health services at level three and four hospitals across the country and the national level. Ninety-eight percent of the health workers serve at the county level, with the remaining being deployed at the national health facilities. KNH, however, argued that its management did not engage the UHC health workers as their MoH handles recruitment and terms of service.
50. According to the PSC, the UHC health workers program is based on Contract /Local Agreement Terms; hence, it is not permanent and pensionable – and, as such, was expected to last for three years, expiring in June 2023.
51. Regarding the remuneration package, the consolidated package is Ksh 50,000 for Diploma Holders and Ksh 40,000 for Certificate Holders serving in the various hospitals at the County level. The compensation packages of the UHC workers providing services at both levels were to be catered for by the respective governments as the PSC provided only a facilitative role, centralized advertisement, and processing.
52. In response to the MoH proposal, the PSC has extended the 8571 UHC healthcare workers' contract for one year (1 year) to June 2024. The short-term, one-year contract allows for structured consultations and consensus by MoH, PSC, CoG, and other stakeholders on converting their terms from contractual to P&P.
53. The continuity of the 8571 UHC health workers program and their absorption into the permanent establishment at both levels of government require discussions and deliberate efforts by all health stakeholders.

54. The employment of public officers, including 8571 UHC health workers, is provided for under legislation and general policies, guidelines, regulations, and rules governing appointment, terms, and remuneration. In the same respect, the Ministries, Departments, and Agencies must adhere to these guidelines in managing interns.
55. The critical role played by the health workers in general and the UHC, in particular, was emphasized by the MoH. According to the C.S., the Ministry recognizes interns' roles across facilities at levels four, five, and six. In consultation with the PSC, the Ministry renewed the contracts of all the 8571 UHC staff for one year on the same terms. This Communication was shared with the counties through CoG on 31 May 2023 vide letter referenced MoH/Adm/Vol 11/58
56. The internship program is not a favor offered to intern candidates of various health cadres as a requirement for academic, professional, and technical occupations or trade certification, registration, and licensing. On the contrary, the law obligates the Ministry to provide internships for the various specialized health cadres, posting to health institutions across the two levels of government and ensuring timely compensation (in the form of a stipend) for services offered.
57. The current establishment of interns under the MoH is nine thousand five hundred (9,500) posts, with the cost implications to be borne by the MoH with Diploma Clinical Officers, Medical Officers, and Nursing Officers sharing 3500,2000 and 2000, respectively –
- i. Medical Officers interns (CSG 9/ Job Group L) – 2000 posts;
 - ii. Clinical Officers (B.Sc Clinical Medicine) Interns (CSG 10/ Job Group K) – 1000 Posts;
 - iii. Clinical Officers (Diploma Holders) Interns (CSG 12/ Job Group H) – 3500 Posts;
 - iv. Pharmacists Interns (CSG 9/ Job Group L) – 800 Posts;
 - v. Nursing Officer Interns (CSG 10/ Job Group K) – 2000 Posts; and
 - vi. Dental Officers Interns (CSG 9/ Job Group L) – 200 Posts.
58. In consultation with the institution, respective professional bodies regulate the accreditation of internship centers and approve numbers of attaches in different institutions. However, the MoH or relevant professional bodies take charge of the posting for one (1) year with terms of engagement addressed by the MoH.

59. The KNH, one of the beneficiaries of the internship program, had a capacity of only 130 (one hundred and thirty) interns during 2022/23 in addition to attaches totaling to one thousand three hundred and eighty (1380) for three to six months.
60. The CHERP health workers employed on contract terms were critical in supporting the government's efforts to prevent, detect, and respond to the threat posed by COVID-19 and strengthen national systems for public health preparedness.

3.2 DISPARITIES IN TERMS OF SERVICE BETWEEN THE UHC STAFF AND OTHER HEALTH WORKERS

61. The petitioners' submission showed that the UHC staff's service terms varied from those of their counterparts in the P&P category. The Committee also learned that the health workers serving under the CHERP program did not benefit from extended contracts beyond 2021. Some of the cases highlighting this issue include the following. THAT: -
62. At least 500 nutritionists who served on internship since 2014 without pay for the duration of their training. In this respect, the Committee heard Case no. 504 of 2018 in the Employment and Labour Relations Court at Mombasa, where The S.G. of Kenya Union of Nutritionists and Dietitians (KUNAD) Mr. Micheal Ouma on behalf of 506 others sued Public Service Commission (PSC), Ministry of Health (MoH), and Kenya Nutritionists and Dieticians Institute. In this instance, the case verdict in 2021 favored the interns, with the outcome giving direction for the interns compensated.
63. The UHC staff receive half of those employed on P&P. For instance, at KNH, Medical Doctors operate at two levels; the first entails doctors employed under KNH, and the second is those used under the UHC and Ministry. In such a scenario, the former receives a remuneration three times more than those doctors at level two under UHC.
64. Apart from the disparities in salaries across the two cadres, differences also apply in paying risk allowances across all cadres in the health sector. Further, a 31 percent gratuity promised to the UHC staff has not been honored. However, the Committee could not verify the terms of the promised compensation to the UHC staff and, hence, could determine its applicability.

65. The Committee also learned of the consolidated salaries offered to the contractual staff under UHC. The Diploma holders receive Ksh. 50,000, while those with Degree and Certificate qualifications are compensated at Ksh.100,000 and Ksh 40,000, respectively. With these terms, the petitioners argued that compensation varies despite these two categories of doctors serving within similar environments and attending to the same patients.
66. The petitioners also shared what they consider discrimination tendencies by MoH in managing health workers, including postings for internship programs, a legal and professional necessity in the medical profession. In this case, the Committee learned that over 500 UHC interns were issued the IIPD numbers without deployment. As such, the IIPD number has curtailed their efforts for employment by any other potential employer in government as they are considered employees of the Ministry. According to the petitioners, the interns wait longer than the recommended one (1) year before posting. For instance, failure to post the clinical officers since December 2022 has resulted in anxiety among the practitioners and an opportunity to work and contribute to health service delivery and interruption of the skills mastery process, which impacts the quality of health services delivered in the long term. The discrimination also ties in with the fact that contractual employment of UHC staff with meager salaries denies them an opportunity to further their studies.
67. Discrimination is through the failure of MoH to absorb Public Health Officers since 2009, the skewed posting of only ninety (90) Orthopedic technologists out of the 9,000 UHC Staff;
68. The examples highlighted above negate Article 41 of the Constitution, which provides for the constitutional basis of the labor law in Kenya, where every person has the right to fair labor practices, adequate remuneration, and reasonable working conditions. In specific terms, the Employment Act 2007 defines employees' fundamental rights, including primary employment conditions. Section 5 of the Act outlaws employer discrimination, whether directly or indirectly, based on such factors as disability, pregnancy, marital status, or HIV status, among others, in respect of recruitment, training, promotion, terms and conditions of employment, termination of employment, or other matters arising out of the employment and that an employer is obligated to compensate their employees' equal remuneration for work of equal value.
69. Additionally, Section 5 (7) of the Employment Act, 2007 provides that in such instances where claims of discrimination are alleged, the employer is obligated

to bear the burden of proving the contrary or that the alleged discriminatory act or omission is not based on any of the grounds specified under Section 5 of the Employment Act.

70. In this instance, while the petitioners have demonstrated variances regarding the terms of service between the health workers serving under UHC and those under the P&P program, the MoH has not shown that regarding the terms of service for UHC health workers, they do not face discrimination.
71. In terms of equal pay for equal work or work of equal value, the right to equal pay for similar work or work done for the case of the UHC staff is a fundamental human right. This right is provided under Article 41 of the Constitution of Kenya. Every worker's fundamental right to equal pay for the same or similar work. This entails equal pay for doing completely different work, but based on objective criteria, of equal value. Specifically, this perspective is reinforced by Section 5(4) of the Employment Act, 2007, which obligates an employer to pay employees equal remuneration for work of equal value.
72. In practice, work of equal value may differ in content, involving different responsibilities and requiring extra skills or qualifications. As such, the disparity in pay is allowed when there are objective differences in the value of work. Qualified employees, however, must be paid the same when they perform the same or virtually the same job in similar conditions. In this instance, MoH continues compensating the two 'categories' of workers' unequal remuneration for work of equal value.
73. In terms of medical internships, Section 2 of the Medical Practitioners and Dentists Act defines an "*intern*" as a person holding a medical or dental degree or its equivalent recognized by the Kenya Medical Practitioners and Dentists Council or a person who has passed the internship qualifying examination and undergoing a prescribed period of internship in a recognized institution. Further, Section 2 of the Act defines an *internship* as a specified period of employment during which a medical or dental graduate works under supervision to fulfill registration requirements.
74. Section 6 of the Act mandates persons to present proof of completion of an internship for registration as a medical practitioner or a dentist.

75. Similarly, Section 13 of the Act mandates that each medical and dental graduate who intends to undertake internship training at the Kenya Medical Practitioners and Dentists Council in the prescribed form and upon payment of the prescribed fee for a one-year internship license.

3.3 CHALLENGES AND POLICY INTERVENTIONS IN ADDRESSING DISCRIMINATION CONCERNS BY UHC HEALTH WORKERS AND GAPS IN THE INTERNSHIP PROGRAM

76. The Committee heard of the long-term interventions in addressing the concerns raised in the petition regarding widespread discrimination of UHC workers and the gaps in implementing the internship program. THAT-
77. A multi-agency task force comprising of CoG, CECM for Health representatives, CPSB representatives, PSC, and the national treasury are working on options and strategies to facilitate the transition of the UHC staff to P&P. The implication of these is that an estimated Ksh 7.2 Billion is required to facilitate this transition; however, only Ksh 4.2 Billion is available a financing gap of Ksh 3.0Billion.
78. Further, the Ministry encourages the County government to consider absorbing the UHC staff within their respective establishments whenever vacancies arise. A case in point is Mandera County, where all the contracted UHC staff are on P&P terms. The CoG, however, stated that the 47 County governments are not in a position to take up the payroll of the UHC at the current market rate salaries, considering the ballooning wage bill. Nevertheless, respective counties are encouraged to prioritize the UHC staff during the recruitment of health workers, and at least 24 counties out of the 47 counties are in the process of filing returns to ensure the renewal of UHC staff for one year and the prompt payment of any salary arrears accrued. Such efforts are taking place as the one-year proposal by the PSC will be considered at the summit, given the variation from three years to one year.
79. Further, according to the CoG, the national government needs to provide conditional grants to County governments to cater for the extension of the contracts.
80. The ongoing operationalization of the Kenya Health Human Resource Advisory Council established under Section 30 of the Health Act will address some challenges, including disparities in terms of service, late posting of interns, and pay across health cadres and within the same cadre. Section 31 of the Act

mandates that the Council review policies and establish uniform norms and standards related to the following –

- i. Posting interns to national and County government
- ii. Intercounty transfer of health professionals
- iii. Transfer of healthcare professionals from one level of government to the other
- iv. The welfare and scheme of service for health professionals
- v. Amnangement and rotational of speicalsies
- vi. Mantaitnane of master register of all health practitioners in the counties.

81. According to the Ministry, the mandate of the Council is even more critical now, considering the significant increase in the number of cadres of health workers in the last two decades. Further, the number of healthcare workers graduating from training institutions has also grown with no corresponding personnel emolument budgets within the Ministry and the sector.

82. The Ministry also reiterated the efforts to increase the number of interns posted annually, indicating that in 2022/23, at least 889 medical officer interns, among other cadres, were assigned across the approved private and public hospitals. These numbers compare to 325 medical officers out of 4129 health workers across six cadres in the current financial year. These are medical officers, pharmacists, dental officers, clinical officers (BSc), Clinical officers (Diploma), and nursing. According to the Ministry, the numbers are constrained by inadequate resources against an ever-increasing demand for intern postings.

83. In operationalizing the National Internship Coordination commitment as defined in the *'Policy For Health Sector Professional 2020'* and the *'Internship Policy and Guidelines 2022'*, the Ministry views this as an opportunity to streamline the health sector internship programs.

CHAPTER 4: COMMITTEE OBSERVATIONS & RECOMMENDATIONS

4.1 COMMITTEE OBSERVATIONS AND FINDINGS

84. The meetings with stakeholders identified several emerging issues. The Committee noted the significant role the UHC health workers and interns played in providing health services, thereby strengthening health services across the country. However, based on the submission, the Committee also agreed that there exist disparities in service between the UHC staff and other health Workers. However, it also became clear that policy interventions are in place and in operation with the possibility of inadequate resources likely to slow down their benefits.
85. The Committee observations are as follows regarding the unfair terms and conditions by UHC staff:-
- i. THAT, 8571 UHC health workers serving in various health facilities contribute to strengthening health systems across the County.
 - ii. THAT, UHC health workers program is based on Contract /Local Agreement Terms; hence, it is not permanent and pensionable. As such, their initial contractual obligation with the various governments was in June 2023.
 - iii. THAT, PSC extended the UHC health workers' contractual obligation for an additional year to June 2024, contrary to the CoG proposal of 3 years. The one-year window allows structured consultations and consensus between MoH, PSC, CoG, and other stakeholders to convert the terms of service of those serving under the UHC program from contractual to P&P.
 - iv. THAT, there is substantial evidence relating to disparities in the Terms of Service between the health workers serving under UHC and the rest on P&P that can be equated to acts of discrimination. The compensation package of UHC health workers is at a lower rate than their other serving health workers. The consolidated package is three times lower than the rest of the health workers at Ksh 50,000 for Diploma Holders and Ksh 40,000 for Certificate holders. This disparity is despite the two categories of health workers serving in similar environments. Differences are also visible in terms of other benefits like risk allowance.
 - v. THAT, the internship program is a legal requirement offered to intern candidates of various health cadres for one year as a requirement for academic, professional, and technical occupations or trade certification, registration, and licensing. Further, the law obligates the Ministry to ensure this is actualized through timely posting to health institutions across the two

levels of government and timely compensation (in the form of a stipend) for services offered.

- vi. THAT, there is a significant upsurge in the number of healthcare workers graduating from training institutions, with current numbers of nine thousand five hundred (9,500) posts across cadres like Diploma Clinical Officers, Clinical officers with B.Sc. in Clinical Medicine, Medical Officers, and Nursing Officers, Pharmacists, and Dental officers. However, the MoH has failed to allocate adequate resources toward personnel emoluments to correspond with the increase in demand for intern postings;
- vii. THAT, Most cadres serving as interns continue to work without compensation despite the requirement for services rendered.
- viii. THAT, Intern postings for health practitioners take longer than the recommended one-year wait, causing significant anxiety among the trainees. Specifically, clinical officers have are not attached to any facility since December 2022.
- ix. THAT, aside from the discrimination towards UHC health workers and the delayed internship postings, there were claims of discrimination arising from the failure of MoH to absorb Public Health Officers since 2009, the skewed posting of only ninety (90) Orthopaedic technologists out of the over 9,000 UHC Staff.
- x. THAT, the petition raises weighty policy issues related to health financing and the health workforce. Health financing is the underlying factor for the two petitions. Health financing and workforce are critical policy orientations of the health sector in the health sector and drive the agenda of Kenya Health Policy 2014- 2030. In this respect, while the two petitions bring out a labor component, they will be effectively addressed from a health perspective due to their health policy inclination.
- xi. THAT, a multi-agency task force comprising CoG, CECM for Health representatives, CPSB representatives, PSC, and the National Treasury, is working on options and strategies to facilitate the transition of the UHC staff to P&P.
- xii. THAT, addressing the concerns raised in both petitions calls for deliberate intention to do so by all stakeholders at both levels of government. This is because of the counterclaims observed during the deliberations. The Ministry argues that transition requires an additional Ksh 3.0 billion and encourages county governments to absorb health workers during recruitment. On the other hand, the CoG decries shortage of funding with calls to the national government to provide conditional grants to County governments to cater for the extension of the contracts.
- xiii. THAT, considering the finding (x) above, the Committee believes the ongoing operationalization of several health policies is the way to sustainable interventions for persistent, recurring concerns related to health

workers. Specifically, Section 30 and 31 of the Health Act 2017 provides for the Kenya Health Human Resource Advisory Council. It mandates that the Council review policies and establish uniform norms and standards, including some of the issues raised in the petition. For instance, posting interns to national and County Governments; intercounty transfer of health professionals, transfer of healthcare professionals from one level of government to the other; the welfare and scheme of service for health professionals; management and rotational of specialists and the maintenance of the master register of all health practitioners in the counties. Further, operationalizing the National Internship Coordination Committee as defined in the 'Policy For Health Sector Professional 2020' and the 'Internship Policy and Guidelines 2022' will give clarity to the management of the health sector internship programs.

4.2 COMMITTEE RECOMMENDATIONS

86. Regarding prayers on the two petitions, the petition on the unfair terms and conditions for the Universal Health Coverage (UHC) staff and delayed posting of interns and the prayers that the Senate—
- i. investigates the issues raised and intervenes on the matter of discrimination and unfair remuneration of health workers;
 - ii. makes recommendations on such programs, including the adequacy of resources, better terms of engagement, and
 - iii. recommends appropriate measures for such programs, including internship posting of health workers.
87. Further, concerning the petition on the unfair treatment of the Covid Health Emergency Response Project and the prayers that the Senate intervenes to have the MoH –
- i. Renew the contract for the CHERP health workers, as is the case for the UHC program.
 - ii. Absorb the CHERP health worker into P&P, as was the case for the ebola front-line workers.
 - iii. Consolidate the CHERP health workers with the UHC ones.

88. The Committee recommends as follows:-

- i. *The Council of Governors to prioritize health workers under the UHC program, CHERP, and other health workers who have served before on contractual terms while recruiting health workers on permanent and pensionable terms pensionable within six months of tabling of this report;*
- ii. *Ministry of Health, in collaboration with the multi-agency task force, prioritizes and finalizes the modalities of the UHC staff transition from contractual to permanent and pensionable within six months of tabling of this report;*
- iii. *Ministry of Health, in collaboration with the Ministry of Education, to develop a road map (including projections) to synchronize the training component and service delivery of the health workforce across all cadres in a bid to streamline service delivery and*
- iv. *Ministry of Health provides adequate resources in the annual budget estimates for operationalizing the Kenya Health Human Resource Advisory Council and National Internship Coordination Committee. Resourcing these critical institutions will ensure they discharge their legal mandate of offering policy guidelines for managing health workers.*



MINUTES OF THE SEVENTY NINTH (79TH) MEETING OF THE STANDING COMMITTEE ON LABOUR AND SOCIAL WELFARE HELD ON SATURDAY, 2ND SEPTEMBER, 2023 AT 11:00 AM. IN AT THE PRIDE INN PARADISE BEACH RESORT, MOMBASA COUNTY.

MEMBERS PRESENT

- | | |
|---|--------------------|
| 1. Sen. Julius Murgor Recha, MP | - Chairperson |
| 2. Sen. George Mungai Mbugua, MP | - Vice-Chairperson |
| 3. Sen. (Rtd.) Justice Stewart Madzayo, CBS, MP | - Member |
| 4. Sen. Mohamed Faki Mwinyihaji, MP | - Member |
| 5. Sen. Alexander Munyi Mundigi, MP | - Member |
| 6. Sen. Crystal Asige, MP | - Member |

APOLOGIES

- | | |
|--|----------|
| 1. Sen. Erick Okong'o Mogeni, SC, MP | - Member |
| 2. Sen. Gloria Orwoba, MP | - Member |
| 3. Sen. Miraj Abdulahi Abdulrahman, MP | - Member |

SECRETARIAT

- | | |
|------------------------|--------------------------|
| 1. Ms. Mwanate Shaban | - Senior Clerk Assistant |
| 2. Ms. Getrude Nthiiri | - First Clerk Assistant |
| 3. Mr. Jeremy Chabari | - Legal Counsel I |
| 4. Mr. Rhyan Injendi | - Research Officer III |
| 5. Mr. Erick Kiboye | - Accountant |
| 6. Mr. Joseph Otieno | - Audio Officer |
| 7. Mr. John Chege | - SAA III |
| 8. Ms. Alice Nanyama | - Secretary, DSEC |

MIN/SEN/SCLSW/394/2023: PRAYERS

The Chairperson called the meeting to order at 11.29 am followed with a word of prayer.

MIN/SEN/SCLSW/395/2023: ADOPTION OF AGENDA

The Agenda of the meeting was adopted having been proposed by Sen. Mohamed Faki Mwinyihaji, MP and seconded by Sen. Alexander Munyi Mundigi, MP as follows –

1. Prayers & Introductions;
2. Adoption of the Agenda;
3. **Adoption of the Report of the County Hall of Fame Bill, 2023 (Senate Bills No. 18 of 2023);**
4. **Adoption of the Report of the Care and Protection of the Child Parent Bill, 2023 (Senate Bills No. 29 of 2023);**
5. **Adoption of the Report on the Petition concerning the unfair terms and conditions for Universal Health Coverage (UHC) staff and delay in internship posting;**
6. **Adoption of the Report on the Petition concerning unlawful salary deductions by Kenya Women Teachers Association (KEWOTA); and**
7. **Adoption of the Report on the Petition concerning alleged fraud by the First Choice Recruitment and Consultancy Agency Ltd.**
8. **Consideration of correspondences before the Committee;**
9. Any Other Business; and
10. Adjournment/Date of the Next Meeting.

MIN/SEN/SCLSW/396/2023 ADOPTION OF THE REPORT OF THE COUNTY HALL OF FAME BILL, 2023 (SENATE BILLS NO. 18 OF 2023);

1. The Committee considered the draft report and amended the recommendation to state that the Committee does not wish to proceed with the Bill however, the Sponsor of the Bill can continue with the Bill if she so wishes; and
2. The report was adopted having been proposed by Sen. Alexander Munyi Mundigi, MP and seconded by Sen. George Mungai Mbugua, MP.

MIN/SEN/SCLSW/397/2023 ADOPTION OF THE REPORT OF THE CARE AND PROTECTION OF CHILD PARENT BILL, 2023 (SENATE BILLS NO. 29 OF 2023).

1. The Committee considered the draft report and recommended the full implementation of the existing laws that would address the Care and Protection of Child Parent Bill, 2023; and
2. The report was adopted having been proposed by Sen. Mohamed Faki Mwinyihaji, MP and seconded by Sen. Alexander Munyi Mundigi, MP.

MIN/SEN/SCLSW/398/2023

ADOPTION OF THE REPORT ON THE
PETITION CONCERNING THE UNFAIR TERMS
AND CONDITIONS FOR UNIVERSAL HEALTH
COVERAGE (UHC) STAFF AND DELAY IN
INTERNSHIP POSTING;

1. The Committee considered the draft report and proposed that the recommendations indicate a time frame to allow for reporting back to the Committee; and
2. The report was adopted having been proposed by Sen. Alexander Munyi Mundigi, MP and seconded by Sen. Crystal Asige, MP.

MIN/SEN/SCLSW/399/2023

ADOPTION OF THE REPORT ON THE
PETITION CONCERNING UNLAWFUL SALARY
DEDUCTIONS BY KENYA WOMEN TEACHERS
ASSOCIATION (KEWOTA);

1. The Committee considered the draft report and recommended that KEWOTA refunds all monies owed to the female teachers who had not voluntarily joined KEWOTA; and
2. The report was adopted having been proposed by Sen. Crystal Asige, MP and seconded by Sen. Alexander Munyi Mundigi, MP.

MIN/SEN/SCLSW/400/2023

ADOPTION OF THE REPORT ON THE
PETITION CONCERNING ALLEGED FRAUD
BY THE FIRST CHOICE RECRUITMENT AND
CONSULTANCY AGENCY LTD.

The Committee considered and adopted the report having been proposed by Sen. George Mungai Mbugua, MP and Seconded by Sen. Crystal Asige, MP.

MIN/SEN/SCLSW/401/2023

CONSIDERATION OF CORRESPONDENCE
BEFORE THE COMMITTEE

The Committee was briefed on all the correspondences before the Committee for it and resolved that it be put in a tabular form for consideration in the next in-house meeting.

MIN/SEN/SCLSW/402/2023 ANY OTHER BUSINESS

1. Members noted that there were many pending Statements, which the Ministries had not responded to and in particular, the Ministry of Youth Affairs, Sports. It was resolved since the Cabinet Secretary was scheduled to appear before the Committee on Thursday 7th September, 2023 the secretariat provides a summary of all the pending Statements for his attention.
2. It was proposed that the Committee conducts investigations as opposed to waiting for the public to present Petitions for the Committees consideration.
3. Sen. Crystal Asige, MP noted that she had not received a response to the Statement on Management and Collection of Music Royalties in Kenya. It was resolved that the same be presented for her attention.

MIN/SEN/SCLSW/403/2023 ADJOURNMENT AND DATE OF THE NEXT MEETING

The meeting was adjourned at 14.35 pm, the date of the next meeting was scheduled for 7th September, 2023 at 9:00am.

SIGNED.......... DATE..........

CHAIRPERSON: SEN JULIUS MURGOR RECHA, MP
STANDING COMMITTEE ON LABOUR AND SOCIAL WELFARE



MINUTES OF THE SEVENTY SEVENTH (77TH) MEETING OF THE STANDING COMMITTEE ON LABOUR AND SOCIAL WELFARE HELD ON FRIDAY, 1ST SEPTEMBER, 2023 AT 12:00 NOON IN AT THE PRIDE INN PARADISE BEACH RESORT, MOMBASA COUNTY.

MEMBERS PRESENT

- | | |
|---|--------------------|
| 1. Sen. Julius Murgor Recha, MP | - Chairperson |
| 2. Sen. George Mungai Mbugua, MP | - Vice-Chairperson |
| 3. Sen. (Rtd.) Justice Stewart Madzayo, CBS, MP | - Member |
| 4. Sen. Mohamed Faki Mwinyihaji, MP | - Member |
| 5. Sen. Miraj Abdulahi Abdulrahman, MP | - Member |
| 6. Sen. Crystal Kegehi Asige, MP | - Member |

APOLOGIES

- | | |
|--------------------------------------|----------|
| 1. Sen. Erick Okong'o Mogeni, SC, MP | - Member |
| 2. Sen. Alexander Munyi Mundigi, MP | - Member |
| 3. Sen. Gloria Orwoba, MP | - Member |

SECRETARIAT

- | | |
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| 2. Ms. Getrude Nthiiri | - First Clerk Assistant |
| 3. Mr. Jeremy Chabari | - Legal Counsel I |
| 4. Mr. Rhyan Injendi | - Research Officer III |
| 5. Mr. Erick Kiboye | - Accountant |
| 6. Mr. Joseph Otieno | - Audio Officer |
| 7. Mr. John Chege | - SAA III |
| 8. Ms. Alice Nanyama | - Secretary, DSEC |

MIN/SEN/SCLSW/381/2023: PRAYERS

The Chairperson called the meeting to order at 12.10 pm followed with a word of prayer. He thereafter, requested for a round of introductions.

MIN/SEN/SCLSW/382/2023: ADOPTION OF AGENDA

The Agenda of the meeting was adopted having been proposed by Sen. Stewart Madzayo, CBS, MP and seconded by Sen. George Mbugua, MP as follows –

1. Prayers & Introductions;
2. Adoption of the Agenda;
3. **Consideration of the Report of on the UHC Petition concerning the unfair terms and conditions for Universal Health Coverage (UHC) staff and delay in internship posting;**
4. **Consideration of the Report of the Petition concerning unlawful salary deductions by Kenya Women Teachers Association (KEWOTA);**
5. **Consideration of the Report on the Petition concerning First Choice Recruitment and Consultancy Agency;**
6. Any Other Business; and
7. Adjournment/Date of the Next Meeting.

MIN/SEN/SCLSW/383/2023 CONSIDERATION OF THE REPORT OF ON THE UHC PETITION CONCERNING THE UNFAIR TERMS AND CONDITIONS FOR UNIVERSAL HEALTH COVERAGE (UHC) STAFF AND DELAY IN INTERNSHIP POSTING;

1. The Committee was taken through the draft report on the Petition concerning the unfair terms and conditions for Universal Health Coverage (UHC) staff and delay in posting.
2. Upon deliberations, the Committee proposed the following recommendations -
 - i. The Teachers Service Commission to stop deductions to KEWOTA on the salaries of the 8 petitioners and the 171 listed teachers from Taita Taveta County with immediate effect;
 - ii. KEWOTA to undertake a fresh recruitment drive in Taita Taveta County for teachers who wish to be members;
 - iii. The TSC to improve the T-pay system to accommodate both manual and electronic consents;
 - iv. The TSC to improve on their customer and client service especially in complaints and responding to general enquiries; and
 - v. The Director of Criminal Investigations to thoroughly investigate the actions of TSC and KEWOTA on the deduction of salaries of the female teachers of Taita Taveta Counties and prosecute those found culpable.

MIN/SEN/SCLSW/384/2023

CONSIDERATION OF THE PETITION REPORT
CONCERNING UNLAWFUL SALARY
DEDUCTIONS BY KEWOTA

1. The Committee was taken through the draft report on the Petition on the KEWOTA.
2. Upon deliberations, the Committee proposed the following recommendations –
 - i. That the Director of Criminal Investigations investigates the allegations further;
 - ii. KEWOTA refunds all the monies deducted from the female teachers;
 - iii. KEWOTA issues consent forms to ensure that teachers join KEWOTA voluntarily despite the process being online;
 - iv. Female teachers should be informed of the benefits of being members of the organization prior to joining KEWOTA; and
 - v. The enrollment process should be both digital and manual to accommodate female teachers who were not able to access technology.

MIN/SEN/SCLSW/385/2023

CONSIDERATION OF THE REPORT ON THE
PETITION CONCERNING ALLEGED FRAUD
BY THE FIRST CHOICE RECRUITMENT AND
CONSULTANCY AGENCY LTD;

1. The Committee was taken through the draft report on the Petition concerning First Choice Recruitment and Consultancy Agency.
2. Upon deliberations, the Committee adopts the recommendations of Uasin Gishu County and proposed the following additional recommendations-
 - i. The Board of the National Employment Authority be disbanded and reconstituted upon the tabling of the Committee report;
 - ii. *The Assets Recovery Agency* repossesses the properties owned by First Choice Recruitment and Consultancy Agency Limited, Ms. Judy Jepchirchir and Ms. Faith Wariga Gichuhi in the event that they do not refund all the monies owed to the petitioners, and use the funds to refund the petitioners;
 - iii. The bank accounts of the directors of First Choice Recruitment and Consultancy Agency Limited, Ms. Judy Jepchirchir and Ms. Faith Wariga Gichuhi be frozen by the relevant authorities until the monies owed to the victims are fully recovered;
 - iv. That the passports of the directors of First Choice Recruitment and Consultancy Agency Limited be withheld by the Directorate of Criminal Investigations;
 - v. The Ministry of Labour and Social Protection and the National Employment Authority to issue a public notice in at least two local dailies with

- nationwide circulation directing First Choice Recruitment and Consultancy Agency Limited to cease its recruitment operations with immediate effect;
- vi. First Choice Recruitment and Consultancy Agency Limited and its other closely related and associated agencies to cease any further operations, recruitment, and placement for a period of not less than **five (5) years** and should be closed monitored by DCI;
 - vii. The Ministry of Labour and Social Protection to cease any further operations, recruitment and placement by similar recruitment agencies that the public has raised concerns about upon tabling of the Committee report;
 - viii. The Ministry of Labour and Social Protection to audit and publicise legitimate recruitment agencies in the country in at least two local dailies with nationwide circulation within one month of tabling the Committee report and annually thereafter.
 - ix. The Ministry of Labour and Social Protection to publicise the list of blacklisted recruitment agencies in the country in at least two local dailies with nationwide circulation within one month of tabling the Committee report and annually thereafter.
 - x. Ms. Judy Jepchirchir, Ms. Faith Wariga Gichuhi other directors of First Choice Recruitment and Consultancy Agency Limited be barred from registering or operating or managing any other recruitment agency or company upon tabling of the Committee report;
 - xi. First Choice Recruitment and Consultancy Agency Limited to refund all the petitioners though bankers cheques' only within one month of tabling the Committee report;
 - xii. The Ministry of Labour and Social Protection and the National Employment Authority to strongly enforce the existing measures and ensure agencies adhere to the laid down regulations.
 - xiii. The Commission on Administrative Justice and Ethics and Anti-Corruption Commission (EACC) investigate the involvement of political leaders and business people and the conduct of state and public officers with regard to First Choice Recruitment and Consultancy Agency Limited and report to the Senate within three months upon tabling of the Committee report;
 - xiv. The Office of the Director of Public Prosecutions and the Office of the Inspector General finalize the investigations on the possible illegalities by First Choice Recruitment and Consultancy Agency Limited and institute criminal proceedings against First Choice Recruitment and Consultancy Agency Limited and others if found culpable and report to the Senate within three months of tabling the Committee report;
 - xv. The Commission on Administrative Justice to investigate the law enforcement agencies in Uasin Gishu County who allegedly harassed the petitioners and report to the Senate within three months of tabling the Committee report; and

- xvi. The Office of the Director of Public Prosecutions finalizes the cases of alleged harassment of the petitioners and terminate of cases whose objective was to intimidate petitioners.

MIN/SEN/SCLSW/386/2023 ANY OTHER BUSINESS

There was no other business.

MIN/SEN/SCLSW/387/2023 ADJOURNMENT AND DATE OF THE NEXT MEETING

The meeting was adjourned at 2.10 pm, in readiness for the next meeting at 3.00 pm.

SIGNED.......... DATE.....3-10-23.....

CHAIRPERSON: SEN JULIUS MURGOR RECHA, MP
STANDING COMMITTEE ON LABOUR AND SOCIAL WELFARE



MINUTES OF THE SIXTY-SEVENTH (67TH) MEETING OF THE STANDING COMMITTEE ON LABOUR AND SOCIAL WELFARE HELD ON THURSDAY, 3RD AUGUST, 2023 AT 11:00 AM IN THE SENATE CHAMBER, MAIN PARLIAMENT BUILDINGS.

MEMBERS PRESENT

- | | |
|--|--------------------|
| 1. Sen. Julius Murgor Recha, MP | - Chairperson |
| 2. Sen. George Mungai Mbugua, MP | - Vice-Chairperson |
| 3. Sen. Alexander Munyi Mundigi, MP | - Member |
| 4. Sen. Miraj Abdulahi Abdulrahman, MP | - Member |

APOLOGIES

- | | |
|---|----------|
| 1. Sen. (Rtd.) Justice Stewart Madzayo, CBS, MP | - Member |
| 2. Sen. Erick Okong'o Mogeni, SC, MP | - Member |
| 3. Sen. Mohamed Faki Mwinyihaji, MP | - Member |
| 4. Sen. Gloria Orwoba, MP | - Member |
| 5. Sen. Crystal Kegehi Asige, MP | - Member |

IN ATTENDANCE

- | | |
|-----------------------------|---|
| 1. Sen. Samson Cherarkey | - Senator, Nandi County |
| 2. Sen. Karung'o Thangwa | - Senator, Kiambu County |
| 3. Hon. Susan Nakhumicha | - CS, Ministry of Health (MOH) |
| 4. Gov. Johnson Sakaja, CBS | - Chair, Labour and Social Welfare Committee, COG |
| 5. Ms. Mary Muthoni, HSC | - PS, Public Health & Professional Standards, MOH |
| 6. Dr. Joyce Nyabuti | - Commissioner, PSC |
| 7. Ms. Joan Otieno | - Commissioner, PSC |
| 8. Dr. Peter Karegwa | - Petitioner, KNUPT |
| 9. Mr. George Gibore | - Petitioner, KUCO |
| 10. Mr. Mohamed Duba | - Petitioner, KHPS |
| 11. Ms. Grace Maria | - Petitioner, Nutritionist |
| 12. Mr. Mohammed Ali | - Petitioner, KEHPHU |

SECRETARIAT

- | | |
|------------------------|---------------------------------|
| 1. Ms. Mwanate Shaban | - Senior Clerk Assistant |
| 2. Ms. Getrude Nthiiri | - First Clerk Assistant |
| 3. Mr. Jeremy Chabari | - Legal Counsel I |
| 4. Ms. Sande Marale | - Principal Research Officer II |
| 5. Mr. Rhyan Injendi | - Research Officer III |
| 6. Mr. Wilson Bosmet | - Deputy Chief SAA |
| 7. Ms. Felistas Mutune | - Media Relations Officer III |
| 8. Mr. Joseph Otieno | - Audio Officer |
| 9. Ms. Swaluha Yusuf | - Protocol Officer III |
| 10. Mr. Onganyi Elphus | - Attachee |

MIN/SEN/SCLSW/330/2023: PRAYERS

The Chairperson called the meeting to order at 11.12 am, followed with a word of prayer. He thereafter requested the participants to make a round of introductions.

MIN/SEN/SCLSW/331/2023: ADOPTION OF AGENDA

The Agenda of the meeting was adopted having been proposed by Sen. Miraj, Abdulrahman, MP and seconded by Sen. George Mungai Mbugua, MP as follows –

1. Prayers & Introductions;
2. Adoption of the Agenda;
Meeting with the Ministry of Health, Council of Governors, Public Service Commission and Salaries and Remuneration Commission on the Petition concerning unfair terms of service for the UHC staff and delays in internship posting;
3. Any Other Business; and
4. Adjournment/Date of the Next Meeting.

MIN/SEN/SCLSW/332/2023 MEETING WITH THE MINISTRY OF HEALTH, COUNCIL OF GOVERNORS, PUBLIC SERVICE COMMISSION AND SALARIES AND REMUNERATION COMMISSION ON THE PETITION CONCERNING UNFAIR TERMS OF SERVICE FOR THE UHC STAFF AND DELAYS IN INTERNSHIP POSTING;

a) Submission from the Cabinet Secretary, Ministry of Health

The Cabinet Secretary informed the meeting that -

1. That the Ministry of Health and the County Public Service Board recruited the UHC staff in the year 2020 a time that the country was battling the COVID-19 pandemic and the country was facing serious shortage of health workers with the rising number of Covid – 19 cases;
2. That the future of the pandemic was unknown, and to ensure the health care system remained resilient to serve the rising COVID19 cases, the government offered a call for recruitment of health care workers with a stipend of Ksh. 50,000 for diploma and Ksh. 40,000 for certificate holders;
3. That, upon consultations with the Public Service Commission, the Ministry of Health renewed contracts for all the UHC Staff under its management for one year;
4. That a multi-agency taskforce has been formed which includes the Council of Governors, County Executive Committee Members in charge of Health, the Public Service Commission and the National Treasury looked at the terms and conditions with the purpose of optimizing the program gains and ensuring value for money;
5. That the taskforce was currently looking at the options and strategies for the ultimate transitioning of the UHC staff employment conditions to permanent and pensionable terms;
6. That the transition to Permanent and Pensionable will cost an estimated Ksh.7.2 B compared to the current allocation of Ksh 4.2 B, and that the Ministry of Health would share the final position on the matter once the discussions with the National Treasury are completed;
7. Internship is a compulsory experiential learning in health care services, where interns build upon previously acquired knowledge and experiences with working within a professional work setting; and
8. The Ministry has noted that the numbers and categories healthcare workers has increased significantly over the period, however, the personnel emoluments budget for the Ministry has not increased in tandem to cater for the increasing number of graduate healthcare workers.

b) Submission by Council of Governors

The Governor informed the Committee that –

1. The Council of Governors was requested to consider absorption of the health workers into permanent and pensionable establishment of county governments where they are deployed;
2. The COG informed the Public Service Commission that some issues were to be given due consideration before such a decision is taken by the County Governments, including adequate budgetary allocation to be availed by the Ministry of Health or National Treasury to provide for the workers' salaries at prevailing market rates;
3. The Summit approved a request from the MoH to renew the contracts UHC staff for a further three years under the same terms due to the budget constraints;

4. The Council has however requested that the contacts be reviewed to align with the prevailing market rates; and
5. Counties were in the process of recruiting health workers and would prioritize on absorbing the UHC workers.

c) Interventions by Members

1. Members raised concerns on the two varying advisory opinions by the PSC to the Ministry of Health and the Council of Governors which led to MOH extending the contracts of UHC staff by one year and relooking into their absorption on PnP terms, while the COG extended the contracts by 3 years;
2. Clarity is needed on which advisory to follow; the PSC one for one year then absorption or the Summit one for renewal of three years;
3. The Committee sought to know what the Ministry of Health had put in place in terms of strategies to ensure that Health is well financed;
4. Members advised the MOH to devolve the UHC payroll to the counties so that essential service providers can be paid;
5. Members requested both the MOH and COG to prioritize health workers.

d) Responses from the COG

1. The COG stated that they have about 8,571 UHC staff across counties;
2. The summit made up of the President and the Governors agreed that the extension of UHC workers be for 3 years, but gave the leeway to specific counties to absorb the workers;
3. The process of renewal of contracts is on-going, with some counties like Mandera having absorbed all their UHC staff;
4. Nairobi County plans to hire 1,011 health workers and priority will be given to the UHC staff; and
5. The proposal by the PSC will be tabled before the Summit, and is likely to be adopted.

e) Intervention by the Petitioners

1. There is discrimination of Public Health Officers in terms of Postings;
2. The matter of CHERPS workers has also not been sorted out;
3. Intern stipend is given to only some cadres of health workers;

f) Responses from the Ministry of Health

1. There are currently over 70 different cadres of health workers and the formation of the different institutions under the Health Act, including the Health Council will sort out the issues;
2. The Ministry has operationalized all the institutions under the Health Act; and

3. The delay in salaries is being sorted out and the payroll will include all the arrears.

g) Committee Resolutions and Way Forward

The Chairperson thanked all the stakeholders for their submissions and informed them that the Committee would retreat to write the report.

MIN/SEN/SCLSW/333/2023 ANY OTHER BUSINESS

There was no other business

MIN/SEN/SCLSW/334/2023 ADJOURNMENT AND DATE OF THE NEXT MEETING

The meeting was adjourned at 12.30 pm, with the date of the next meeting scheduled for Tuesday, 8th August, 2023.

SIGNED..........DATE 1st SEPTEMBER, 2023.....

CHAIRPERSON: SEN JULIUS MURGOR RECHA, MP
STANDING COMMITTEE ON LABOUR AND SOCIAL WELFARE



MINUTES OF THE SIXTY FIRST (61ST) MEETING OF THE STANDING COMMITTEE ON LABOUR AND SOCIAL WELFARE HELD ON TUESDAY, 11TH JULY, 2023 AT 10.00 AM IN THE SENATE CHAMBER, MAIN PARLIAMENT BUILDINGS.

MEMBERS PRESENT

- | | |
|--|--------------------------------------|
| 1. Sen. George Mungai Mbugua, MP | - Vice-Chairperson (Ag. Chairperson) |
| 2. Sen. Alexander Munyi Mundigi, MP | - Member |
| 3. Sen. Miraj Abdulahi Abdulrahman, MP | - Member |
| 4. Sen. Crystal Kegehi Asige, MP | - Member |

APOLOGIES

- | | |
|---|---------------|
| 1. Sen. Julius Murgor Recha, MP | - Chairperson |
| 2. Sen. (Rtd.) Justice Stewart Madzayo, CBS, MP | - Member |
| 3. Sen. Erick Okong'o Mogeni, SC, MP | - Member |
| 4. Sen. Mohamed Faki Mwinyihaji, MP | - Member |
| 5. Sen. Gloria Orwoba, MP | - Member |

IN ATTENDANCE

- | | |
|----------------------------|-------------------------|
| 1. Sen. Samson Cherarkey | - Senator, Nandi County |
| 2. Mr. George Nyabato | - Commissioner, PSC |
| 3. Ms. Lyn Mergia | - Chairperson, SRC |
| 4. Sen. Isaac Melly | - Commissioner, SRC |
| 5. Ms. Sophie Moturi | - Commissioner, SRC |
| 6. Dr. Evanson Kamuri, EBS | - CEO, KNH |
| 7. Mr. Khura Mundia | - KMPDU |
| 8. Mr. George Gibore | - KUCO |

SECRETARIAT

- | | |
|------------------------|-------------------------------|
| 1. Ms. Mwanate Shaban | - Senior Clerk Assistant |
| 2. Ms. Getrude Nthiiri | - First Clerk Assistant |
| 3. Mr. Jeremy Chabari | - Legal Counsel I |
| 4. Ms. Sande Marale | - Principal Research Officer |
| 5. Ms. Lilian Onyari | - Fiscal Analyst |
| 6. Mr. Rhyan Injendi | - Research Officer III |
| 7. Ms. Felistas Mutune | - Media Relations Officer III |

- | | |
|------------------------|------------------------|
| 8. Mr. John Chege | - SAA |
| 9. Mr. Joseph Otieno | - Audio Officer |
| 10. Ms. Swaluha Yusuf | - Protocol Officer III |
| 11. Mr. Onganyi Elphas | - Attachee |

MIN/SEN/SCLSW/295/2023: PRAYERS AND INTRODUCTIONS

The Chairperson called the meeting to order at 10.29 am followed with a word of prayer.

MIN/SEN/SCLSW/296/2023: ADOPTION OF AGENDA

The Agenda of the meeting was adopted having been proposed by Sen. Alexander Munyi Mundigi, MP and seconded by Sen. Crystal Asige, MP as follows-

1. Prayers & Introductions;
2. Adoption of the Agenda;
3. Meeting with the Ministry of Health, the Council of Governors, the Public Service Commission, the Salaries and Remuneration Commission, the Kenyatta National Hospital and the Petitioners on the Petition concerning unfair terms and conditions for Universal Health Coverage Staff and delays in internship posting;
4. Any Other Business; and
5. Adjournment/Date of the Next Meeting.

MIN/SEN/SCLSW/297/2023 MEETING WITH THE MINISTRY OF HEALTH, THE COUNCIL OF GOVERNORS, THE PUBLIC SERVICE COMMISSION, THE SALARIES AND REMUNERATION COMMISSION, THE KENYATTA NATIONAL HOSPITAL AND THE PETITIONERS ON THE PETITION CONCERNING UNFAIR TERMS AND CONDITIONS FOR UNIVERSAL HEALTH COVERAGE STAFF AND DELAYS IN INTERNSHIP POSTING;

a) Submissions by the Petitioners

Various representatives from the Unions gave their submissions, raising concerns on the absence of the CS, Health and the Chair, Council of Governors.

b) Submissions by the Salaries and Remuneration Commission

In the submissions, the Chairperson, SRC informed the meeting as follows-

1. The current remuneration and benefits of UHC staff and other interns was recommended by the Public Service Commission;

2. The renewal, extension and determination of contracts of engagement for the UHC staff is not under the purview of SRC; and
3. That in line with SRC's mandate as set out under Article 230 (4) of the Constitution and Section 11 of the SRC Act, SRC will continue to engage and respond to stakeholders on the matter, as appropriate.

c) Submission by Chief Executive Officer, Kenyatta National Hospital

In his submission, the CEO informed the Committee as follows, THAT-

1. The Hospital in keeping with its mandate of offering the training facilities for medical education, offers opportunities for attachment under the internship program. The interns are either posted by the Ministry of Health or the relevant professional bodies;
2. The accreditation of internships centers and approved numbers of attaches for different institutions is regulated by the relevant professional bodies in consultation with the institution;
3. The interns' contract is for one year and the hospital does not pay their salaries as the Ministry of Health takes care of their terms of engagement. The hospital however offers the outpatient medical care for the interns for the period of internship;
4. The Hospital also takes attaches who require practical experience before they qualify for their training. The attachment lasts for a period of three to six months;
5. The Hospital offers opportunities for the students trained abroad for prequalifying training in their relevant areas. It also hosts many students who utilize the facility for training of students especially in clinical space; and
6. The hospital did not engage UHC staff since the process of recruitment was handled by the Ministry of Health, additionally remuneration is solely handled by the Ministry of Health.

d) Committee Observations

1. The Public Service Commission had declined the request by the Ministry of Health to extend the contract for Universal Health Coverage officers to allow for negotiations for the permanent and pensionable employment;
2. The Council of Governors had disregarded the advice by the Public Service Commission to extend the contract by one year and instead renewed it for three years;
3. The Public Service Commission and the Salaries and Remuneration had not followed the law as they continued to engage workers on contract for over six months;
4. The deliberations could not proceed without the presence of the CS Health and the Chair COG who are the major employers of the Health workers.

e) Committee Resolutions

Following deliberations, the Committee resolved that –

1. The Cabinet Secretary Ministry of Health be summoned to appear in the next meeting as she had failed to appear before the Committee three times consecutively; and
2. The other stakeholders and the Petitioners be invited to the next meeting.

MIN/SEN/SCLSW/298/2023

ANY OTHER BUSINESS

There being no other business.

MIN/SEN/SCLSW/299/2023

ADJOURNMENT AND DATE OF THE NEXT MEETING

The meeting was adjourned at 11.30 am, with the date of the next meeting scheduled for Thursday 13th July 2023 at 9:00 am.

For:

SIGNED.....



DATE.....

Thursday 3rd Aug. 2023

**CHAIRPERSON: SEN JULIUS MURGOR RECHA, MP
STANDING COMMITTEE ON LABOUR AND SOCIAL WELFARE**



MINUTES OF THE 55TH MEETING OF THE STANDING COMMITTEE ON LABOUR AND SOCIAL WELFARE HELD ON TUESDAY 20TH JUNE 2023 AT 9:00AM IN THE SENATE CHAMBER.

MEMBERS PRESENT

- | | |
|--|---------------|
| 1. Sen. Julius Murgor Recha, MP | - Chairperson |
| 2. Sen. (Rtd) Justice Stewart Madzayo, CBS, MP | - Member |
| 3. Sen. Mohamed Faki Mwinyihaji, MP | - Member |
| 4. Sen. Alexander Munyi Mundigi, MP | - Member |
| 5. Sen. Miraj Abdulahi Abdulrahman, MP | - Member |
| 6. Sen. Crystal Kegehi Asige, MP | - Member |
| 7. Sen. Gloria Orwoba, MP | - Member |

APOLOGIES

- | | |
|--------------------------------------|--------------------|
| 1. Sen. George Mungai Mbugua, MP | - Vice-Chairperson |
| 2. Sen. Erick Okong'o Mogeni, SC, MP | - Member |

SECRETARIAT

- | | |
|------------------------|-------------------------------|
| 1. Ms. Getrude Nthiiri | - First Clerk Assistant |
| 2. Mr. Jeremy Chabari | - Legal Counsel I |
| 3. Mr. Rhyan Injendi | - Research Officer III |
| 4. Ms. Felistas Mutunc | - Media Relations Officer III |
| 5. Mr. Joseph Otieno | - Audio Officer |
| 6. Ms. Swaluha Yusuf | - Protocol Officer III |
| 7. Mr. John Chege | - SAA III |
| 8. Mr. Onganyi Elphas | - Attachee |

IN ATTENDANCE

- | | |
|---------------------------|--|
| 1. Mr. Anthony M. Muchiri | - Chairperson, Public Service Commission (PSC) |
| 2. Ms. Joan Machayo | - Director IIRMD, PSC |
| 3. Mr. Nelson M. Weru | - Director, Establishment and Management Consultancy PSC |
| 4. Mr. Peter Maina | - Director RFS, PSC |
| 5. Mr. Mohamed B. Duba | - Chairman, Kenya Health Professional Society (KHPS) |
| 6. Ms. Stella K. Mbuvi | - Executive member NUBEK |

7. Ms. Irene Gathirimbae - Community Health Officer
8. Mr. Amon Matera - Ass. Secretary General
9. Mr. Mustafa Ibrahim - Deputy Director PSC
10. Ms. Lillian Mumina - National Treasury, KUNAD
11. Mr. George Gibore - CEO, KUCO
12. Ms. Wilfred Wagura - KUCO

MIN/SEN/SCLSW/263/2023: PRAYERS AND INTRODUCTIONS

The Chairperson called the meeting to order at 9.12 am followed with a word of prayer. He thereafter requested the participants to make a round of introductions.

MIN/SEN/SCLSW/264/2023: ADOPTION OF AGENDA

The Agenda of the meeting was adopted having been proposed by Sen. Mohamed Faki Mwinyihaji, MP and seconded by Sen. Alexander Munyi Mundigi, MP as follows-

1. Prayers;
2. Adoption of the Agenda;
3. Meeting with the Ministry of Health, the Council of Governors, the Public Service Commission, the Kenyatta National Hospital and the Petition concerning unfair terms and conditions for Universal Health Coverage (UHC) staff and delay in internship posting;
4. AOB, and
5. Adjournment/Date of the Next Meeting.

MIN/SEN/SCLSW/265/2023 MEETING WITH THE MINISTRY OF HEALTH, THE COUNCIL OF GOVERNORS, THE PUBLIC SERVICE COMMISSION, THE SALARIES AND REMUNERATION COMMISSION, THE KENYATTA NATIONAL HOSPITAL AND THE PETITION CONCERNING UNFAIR TERMS AND CONDITIONS FOR UNIVERSAL HEALTH COVERAGE STAFF AND DELAY IN INTERNSHIP POSTING

a) Communication by the Chair

1. The Chairperson acknowledged the apologies from the following stakeholders who were unable to attend the meeting and requested that the Committee considers inviting them at a later date -
 - i. Ministry of Health
 - ii. The Council of Governors
 - iii. Salaries and Rumuneration Commission
 - iv. The Kenyatta National Hospital
2. He then briefed the meeting on the issues raised in the petition regarding the unfair terms and conditions for universal Health Coverage staff and delays in internship

posting. He thereafter invited the stakeholders to respond to issues raised by the Petitioners.

b) Presentation by the Public Service Commission

3. In his presentation, the Chairperson of the Commission informed the Committee as follows-
 - i. that the Commission in 2020 facilitated the recruitment for Universal Health Coverage health workers through centralized advertisement in phases;
 - ii. that, there are general policies, guidelines, regulations and rules governing appointment, terms, remunerations and other related matters concerning the employment of public officers inclusive of UHC healthcare workers on permanent and pensionable and contract/local agreement terms;
 - iii. that, with regards to renewal and extension of contracts/absorption, the health care workers engaged under the UHC programme are deployed at level three and four hospitals across the country, with the aim to strengthen the delivery of services;
 - iv. that contracts are due to lapse in June 2023 and the exit of this critical mass may adversely affect access to medical care, thus the need structured consultations and consensus by MOH, Public Service Commission, Council of Governors and other stakeholders;
 - v. the Commission has developed an internship policy to guide Ministries, Departments and Agencies in the management of internship programmes. Therefore, the MOH has a statutory obligation to provide internship for the various specialized cadres. Posting to health institutions across both levels of government; and
 - vi. the Commission in 2021 reviewed and expanded the establishment from interns in the Ministry of Health to 9,500 posts.
4. Arising from the presentation by the Public Service Commission, the Committee noted the following;
 - i. advertisement of Health care workers was discriminative on the preventive health care workers;
 - ii. there is a vacancy when workers are laid off and there is no replacement;
 - iii. the PSC had not made provisions for sign language interpreters in the health sector;
 - iv. there was discrimination in the remuneration of the health workers in the Permanent and pensionable basis and those on contract yet they performed the same duties; and
 - v. the bio medical engineers are overworked as most health facilities have under employed.

Resolution

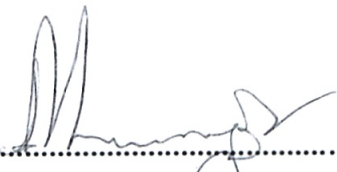
Noting that the presence of the other stakeholders was important in addressing the issues raised in the petition, the Committee there resolved that a follow up meeting be held on Tuesday 4th July, 2023 with all the stakeholders present.

MIN/SEN/SCLSW/266/2023 **ANY OTHR BUSINESS (AOB)**

There was no other business. _____

MIN/SEN/SCLSW/267/2023 **ADJOURNMENT AND DATE OF THE NEXT MEETING**

The meeting was adjourned at 10.57 am. The next meeting was scheduled for Thursday 22nd June, 2023 at 9.00 a.m.

SIGNED..........DATE Monday, 10th July, 2023.....
CHAIRPERSON: SEN. JULIUS MURGOR, MP
STANDING COMMITTEE ON LABOUR AND SOCIAL WELFARE



MINUTES OF THE 36TH MEETING OF THE STANDING COMMITTEE ON LABOUR AND SOCIAL WELFARE HELD ON MONDAY, 24TH APRIL, 2023 2.30 PM ON THE ZOOM ONLINE PLATFORM.

MEMBERS PRESENT

- | | |
|--|--------------------------------|
| 1. Sen. George Mungai Mbugua, MP | - Vice-Chairperson (Ag. Chair) |
| 2. Sen. Mohamed Faki Mwinyihaji, MP | - Member |
| 3. Sen. Crystal Kegehi Asige, MP | - Member |
| 4. Sen. Miraj Abdulahi Abdulrahman, MP | - Member |
| 5. Sen. Gloria Orwoba, MP | - Member |

ABSENT WITH APOLOGIES

- | | |
|---|---------------|
| 1. Sen. Julius Murgor Recha, MP | - Chairperson |
| 2. Sen. (Rtd.) Justice Stewart Madzayo, CBS, MP | - Member |
| 3. Sen. Erick Okong'o Mogeni, SC, MP | - Member |
| 4. Sen. Alexander Munyi Mundigi, MP | - Member |

IN ATTENDANCE

- | | |
|------------------------------|---|
| 1. Sen. Samson Cherarkey, MP | - Senator, Nandi County |
| 2. Dr. Davij Bhimji Atellah | - General Secretary, Kenya Medical Practitioners and Dentists Union (KMPDU) |
| 3. Mr. George M. Gibore | - Secretary General, Kenya Union of Clinical Officers (KUCO) |
| 4. Mr. Elias Mutuma | - General Secretary, Kenya National Union of Pharmaceutical Technologists and Officers (KNUPTO) |
| 5. Mr. Samuel Karanja | - Secretary, Society of Radiography in Kenya |
| 6. Dr. Mohamed Duba | - Secretary General, Association of Public Health Officers |

SECRETARIAT

- | | |
|------------------------|------------------------------|
| 1. Ms. Getrude Nthiiri | - First Clerk Assistant |
| 2. Ms. Sande Marale | - Principal Research Officer |
| 3. Mr. Jeremy Chabari | - Legal Counsel |
| 4. Mr. Rhyan Injendi | - Research Officer |
| 5. Ms. Felistas Mutune | - Media Relations Officer |
| 6. Mr. Joseph Otieno | - Audio Officer |
| 7. Ms. Swaluha Yusuf | - Protocol Officer III |

MIN/SEN/SCLSW/162/2023: PRAYERS

The Ag. Chairperson called the meeting to order at 14.57pm followed by a word of prayer. He thereafter requested the stakeholders to introduce themselves.

MIN/SEN/SCLSW/163/2023: ADOPTION OF AGENDA

The Agenda of the meeting was adopted having been proposed by Sen. Miraj Abdulahi Abdulrahman, MP and seconded by Sen. Chrystal Kagehi Asige, MP as follows-

1. Prayers & Introductions;
2. Adoption of the Agenda;
3. Communication from the Chair;
4. Meeting with the petitioners on the petition concerning the unfair terms and conditions for Universal Health Coverage (UHC) staff and delay in internship posting;
5. Any Other Business; and
6. Adjournment/Date of the Next Meeting.

MIN/SEN/SCLSW/164/2023: COMMUNICATION FROM THE CHAIRPERSON

The Ag. Chairperson welcomed the petitioners to the meeting and requested Sen. Samson Cherarkey, MP who had presented the petition in the Senate on behalf of the petitioner to give a brief of the petition and invite the petitioners to make their submissions to the Committee.

MIN/SEN/SCLSW/165/2023: MEETING WITH THE PETITIONERS ON THE PETITION CONCERNING THE UNFAIR TERMS AND CONDITIONS FOR UNIVERSAL HEALTH COVERAGE (UHC) STAFF AND DELAY IN INTERNSHIP POSTING;

The Petitioners presented as follows -

1. That a group of health workers were recruited under one-year Universal Health Coverage internship contract to boost efforts on achievement of Universal Health as well as aid in the fight against COVID19 and were given personal numbers but released from service after one year of service leaving a shortage that remains uncovered to date in their previous workstations;
2. That the health care workers faced a lot of discrimination despite there being a workforce shortage in the health sector. This has lead to many health workers leaving the country for better opportunities;
3. That the public service was in contravention of the Employment Act as most officers were not on Permanent and Pensionable employment thus hindered them from attaining further education;

4. The Nutrition Department was not under an Exchequer, which made it difficult for officers under internship to get paid despite the matter having been ruled in their favour by the court of law;
5. Whenever there was unfair distribution of positions in the health sector, patients were affected the most as they ended up not getting adequate services;
6. That there was no equity in the health sector in terms of allowances as not all officers were entitled to risk allowances despite their nature of work;
7. There was need for the relevant agencies to work together to ensure equal work for equal pay and retention of health workers in the country;
8. The petitioners prayed that the Senate-
 - a) Investigates the issues raised and intervenes on the matter of discrimination and unfair remuneration of health workers;
 - b) Makes recommendations on such programmes including adequacy of resources, better terms of engagement etc; and
 - c) Recommends appropriate measures such programmes including internship posting of health workers.
9. The meeting noted the submissions of the petitioners and resolved to invite the relevant stakeholders to deliberate on the matter.

MIN/SEN/SCLSW/166/2023 ANY OTHER BUSINESS & ADJOURNMENT

There being no other business, the meeting was adjourned at 15:32 pm.

MIN/SEN/SCLSW/167/2023 AND DATE OF THE NEXT MEETING

The date of the next meeting was scheduled for Tuesday 25th April, 2023 at 10:30 am.

SIGNED.......... DATE Thursday, 4th May, 2023.....

(CHAIRPERSON: SEN. JULIUS MURGOR RECHA, MP)
STANDING COMMITTEE ON LABOUR AND SOCIAL WELFARE



MINUTES OF THE 34TH MEETING OF THE STANDING COMMITTEE ON LABOUR AND SOCIAL WELFARE HELD ON WEDNESDAY, 19TH APRIL, 2023 8.30 AM ON ZOOM ONLINE MEETING PLATFORM.

MEMBERS PRESENT

- | | |
|--|--------------------|
| 1. Sen. Julius Murgor Recha, MP | - Chairperson |
| 2. Sen. George Mungai Mbugua, MP | - Vice-Chairperson |
| 3. Sen. Crystal Kegehi Asige, MP | - Member |
| 4. Sen. Miraj Abdulahi Abdulrahman, MP | - Member |
| 5. Sen. Alexander Munyi Mundigi, MP | - Member |
| 6. Sen. Gloria Orwoba, MP | - Member |

ABSENT WITH APOLOGIES

- | | |
|---|----------|
| 1. Sen. (Rtd.) Justice Stewart Madzayo, CBS, MP | - Member |
| 2. Sen. Erick Okong'o Mogeni, SC, MP | - Member |
| 3. Sen. Mohamed Faki Mwinyihaji, MP | - Member |

SECRETARIAT

- | | |
|------------------------|---------------------------|
| 1. Ms. Mary Chesire | - Ag. Director, DSEC |
| 2. Ms. Veronica Kibati | - HoD, ISS |
| 3. Ms. Mwanate Shaban | - Senior Clerk Assistant |
| 4. Ms. Getrude Nthiiri | - First Clerk Assistant |
| 5. Ms. Marale Sande | - Principal Researcher |
| 6. Mr. Jeremy Chabari | - Legal Counsel |
| 7. Mr. Rhyan Injendi | - Research Officer |
| 8. Ms. Felistas Mutune | - Media Relations Officer |
| 9. Mr. Joseph Otieno | - Audio Officer |
| 10. Ms. Swaluha Yusuf | - Protocol Officer III |
| 11. Mr. Wilson Bosmet | - SAA |

MIN/SEN/SCLSW/151/2023: PRAYERS

The Chairperson called the meeting to order at 8.33am followed by a word of prayer.

MIN/SEN/SCLSW/152/2023: ADOPTION OF AGENDA

The Agenda of the meeting was adopted having been proposed by Sen. Crystal Kegehi Asige, MP and seconded by George Mungai Mbugua, MP as follows-

1. Prayers;
2. Adoption of the Agenda;
3. Confirmation of Minutes of previous meetings;
4. Matters Arising from previous minutes;
5. Briefing on the Petition concerning unfair terms and conditions for Universal Health Coverage (UHC) staff and delay in internship posting;
6. Any Other Business; and
7. Adjournment/Date of the Next Meeting.

MIN/SEN/SCLSW/153/2023: CONFIRMATION OF MINUTES OF PREVIOUS MEETINGS;

- a) The Minutes of the 25th Sitting held on Monday, 3rd April, 2023, at 11.00 am were confirmed as a true record of the proceedings of the Committee having been proposed by Sen. Crystal Kegehi Asige, MP and seconded by Sen. George Mungai Mbugua, MP;
- b) The Minutes of the 26th Sitting held on Monday, 3rd April, 2023 at 11.30 am, were confirmed as a true record of the proceedings of the Committee having been proposed by Sen. George Mungai Mbugua, MP and seconded by Sen. Crystal Kegehi Asige, MP;
- c) The Minutes of the 27th Sitting held on Monday, 3rd April, 2023 at 14.45 pm, were confirmed as a true record of the proceedings of the Committee having been proposed by Sen. George Mungai Mbugua, MP and seconded by Sen. Crystal Asige, MP;
- d) The Minutes of the 28th Sitting held on Tuesday, 4th April, 2023 at 14.30 pm, were confirmed as a true record of the proceedings of the Committee having been proposed by Sen. Crystal Asige, MP and seconded by Sen. George Mungai Mbugua, MP;
- e) The Minutes of the 29th Sitting held on Tuesday, 4th April, 2023 at 16.00 pm, were confirmed as a true record of the proceedings of the Committee having been proposed by Sen. Crystal Asige, MP and seconded by Sen. George Mungai Mbugua, MP;
- f) The Minutes of the 30th Sitting held on Wednesday, 5th April, 2023 at 9.00 am, were confirmed as a true record of the proceedings of the Committee having been proposed by Sen. George Mungai Mbugua, MP and seconded by Sen. Crystal Asige, MP;
- g) The Minutes of the 31st Sitting held on Wednesday, 5th April, 2023 at 10.00 am, were confirmed as a true record of the proceedings of the Committee having been proposed by Sen. George Mungai Mbugua, MP and seconded by Sen. Crystal Asige, MP; and
- h) The Minutes of the 32nd Sitting held on Wednesday, 5th April, 2023 at 11.30 am, were confirmed as a true record of the proceedings of the Committee having been proposed by Sen. Crystal Asige, MP and seconded by Sen. George Mungai Mbugua, MP.

MIN/SEN/SCLSW/154/2023: MATTERS ARISING FROM THE PREVIOUS MINUTES

EX. MIN. /SEN. SCLSW/113/2023: MEETING WITH THE KISII COUNTY COUNTY ASSEMBLY

The Committee noted that Kisii County Assembly had requested for 21 days to consider all labour issues that had ben brought to the attention of the Labour Committee at the County Assembly. It was resolved that the Committee follows up of the same upon the lapse of the 21 days as agreed; and

EX. MIN. /SEN. SCLSW/117/2023: MEETING WITH THE KISII COUNTY EXECUTIVE


The Committee also resolved to write to the Kisii County Public Service Board requesting them to make a submission formally to the Committee to enable the Committee to follow up with the Kisii County Executive.

MIN/SEN/SCLSW/155/2023: BRIEFING ON THE PETITION CONCERNING UNFAIR TERMS AND CONDITIONS FOR UNIVERSAL HEALTH COVERAGE (UHC) STAFF AND DELAY IN INTERNSHIP POSTING;

The Members were briefed on the petition concerning unfair terms and conditions for Universal Health Coverage (UHC) staff and delay in internship posting, and resolved to meet the Petitioners on Monday 24th April, 2023.

MIN/SEN/SCLSW/156/2023 ADJOURNMENT AND DATE OF THE NEXT MEETING

There being no other business, the meeting was adjourned at 9.24 am. The next meeting was scheduled for Thursday 20th April, 2023 at 9:00 am.

SIGNED..........DATE.....Thursday, 14th May, 2023.....
(CHAIRPERSON: SEN. JULIUS MURGOR RECHA, MP)
STANDING COMMITTEE ON LABOUR AND SOCIAL WELFARE



OUR REF: HSU/NA-MOH/01/02 2023 (01)

DATE: 15th March, 2023

The Clerk of the Senate,
Parliament Building,
P.O Box 41842-00100,
Nairobi, Kenya.

Dear Sir/Madam,

**RE: PETITION ON UNFAIR TERMS AND CONDITIONS FOR
UNIVERSAL HEALTH COVERAGE (UHC) STAFF AND DELAY IN
INTERNSHIP POSTING.**

WE the duly registered Health Sector Unions, Associations and Societies with a constitutional and legal mandate of championing the Labour interest and professional welfare of all Health Workers employed by both levels of Government, being Citizens of the Republic of Kenya, and Authorized Representatives/Officials. TOGETHER with UHC staff and Interns who have sort our representation.

DRAW the attention of the Senate to the following-

THAT:

- In April 2020, a group of health workers were recruited under one-year Universal Health Coverage internship contract to boost efforts on achievement of Universal Health as well as aid in the fight against COVID19.
- They were given personal numbers but released from service after one year of service leaving a shortage that remains uncovered to date in their previous work stations.
- They are unable to get any other employment in public service since they have personal numbers under the Ministry of Health.

THAT;

- In June 2020, at the height of COVID19 pandemic, the Ministry of Health employed about 9,000 on a three-year UHC contract and deployed them in different County Government(s). Their contracts are coming to an end in May 2023.
- The UHC staff have been diligently providing critical health services across the country since they were engaged.

Petition on unfair terms and conditions for universal health coverage (UHC) staff and delay in internship posting

- These contracts attracted a consolidated salary that have seen them earn half of what their peers earn working in the same environment.
- In February 2023, the Intergovernmental Summit sitting in Naivasha resolved that the Ministry of Health to extend the contracts of UHC staff for a further period of three year-term under the same terms and conditions.
- These staff are disturbed and demotivated by these development as they had valid expectations that they would have been absorbed on permanent and pensionable terms or their remuneration improved to be equal with their peers whom they work together under same conditions but earning differently.

THAT;

- Article 259 of the Constitution of Kenya provides that the Constitution must be interpreted in a manner that promotes its purposes, values and principles; advances the rule of law and human rights and fundamental freedoms in the Bill of Rights. Permits the development of the law and contributes to good governance.

THAT;

- Article 41 of the Constitution of Kenya, 2010, we are entitled to constitutional privileges of Fair Labour Practices; this being a Human Right. The article reads in part: 41. Labour relations (1) every person has the right to fair Labour practices. (2) Every worker has the right— (a) to fair remuneration; ...
- Internship contract is recognized under employment act as a contract of service under apprenticeship of indentured learnership and therefore entitled to enjoy the protection of article 41 of the constitution.
- Both UHC staff and interns submit that they have suffered unfair remuneration as their remuneration has not followed the principle of "equal pay for equal work".
- This act is not only unfair but discriminatory in nature and goes against the doctrine of fair labour practice ordained in Article 41 of the Constitution of Kenya, 2010 as well as the Employment Act No.11 (2007) Laws of Kenya on fair labour practice and discrimination.

THAT;

- Both Article 27 of the Constitution and Section 5 of the Act prohibit discrimination on the basis of race, colour, sex, language, religion, political or other opinion, nationality, ethnic or social origin, disability, pregnancy, marital status or HIV status.
- Section 5 (7) of the Act provides that when discrimination has been alleged by an employee, the burden of proof shifts to the employer who must show that it did not take place.

Petition on unfair terms and conditions for universal health coverage (UHC) staff and delay in internship posting

- According to the Constitution of Kenya, all human beings are born equal and are equal before the law.
- Section 5 of the Employment Act provides that it's illegal to discriminate in any facet of employment.
- It also provides that an employer shall promote equal opportunities in employment and shall ensure that policies and practices of the organization discourage discrimination.
- The law disallows discrimination in the process of recruitment, training, promotion, terms and conditions of employment, termination of employment and other matters related to employment.

THAT;

- The Public Service Commission, Human Resource Policies and Procedures Manual for the Public Service May, 2016 recognizes the establishment, initiation and management of the Internship programmes in Kenya. The same that states inter-alia;
(3) Internship programmes shall be guided by the relevant provisions of the Constitution, relevant professional bodies and other policy guidelines and shall not exceed one (1) year.

THAT;

- The internship is a legal requirement and a prerequisite for licensure and independent practice. The ministry of health is mandated to ensure that ALL officers are facilitated by posting to internship centers and paying their salary/stipend; whereas some cadres e.g. pharmaceutical technologists, nutritionists and dietitians are not paid the stipend.
- These interns were supposed to be posted in December 2022 but this has not happened to date. Of great concern is the fact that we have seen other interns being posted without any communication on when the remaining interns are to be posted.
- Also, while all other interns are paid using a job group in the health sector, diploma Clinical Officers are only paid a meager allowance that can't cater to their basic needs during the internship.
- Delay in internship posting delays licensure and therefore creates anxiety, denies the graduates opportunity to work and contribute to health service delivery as well as interruption of skills mastery process which impacts on the quality of health services delivered in future.

THAT;

- The African Charter on Human and People's Rights, to which Kenya became a state party on 23rd January 1992 and in particular Article 3(2) which provides that every person is entitled to equal protection of the law.

Petition on unfair terms and conditions for universal health coverage (UHC) staff and delay in internship posting

- Article 5 which provides that every individual shall have the right to the respect of the dignity inherent in a human being;
- Article 9 which provides that every individual shall have the right to receive information and to express disseminate his opinions within the law.

THAT;

- The Senate has powers to find a solution to this discrimination and unfair labour practices and remuneration.

THAT;

- We have made every effort to have the matter addressed by the relevant bodies but the responses has been no response and in other cases it has been unsatisfactory; and

THAT;

- None of the issues raised in this Petition are pending before in any court of law, constitutional or any other legal body.

WHEREFORE, your humble petitioners pray **THAT;**

The Senate-


1. Investigates the issues raised and intervenes on the matter of discrimination and unfair remuneration of these health workers;
2. Makes recommendations on such programmes including adequacy of resources, better terms of engagement etc; and
3. Recommends appropriate measures for such programmes including internship and posting of health workers.

Dated & signed at NAIROBI this.....15th ...day of.....MARCH2023.

Counter signed by Senator for Nandi County.

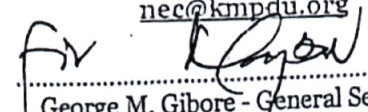
SEN. SAMSON CHERARKEY, MP,
SENATOR FOR NANDI COUNTY.

Signed For and on behalf of Health Sector Unions, Societies and Associations;


.....
Dr. Davji Bhujji Atallah - General Secretary


1 Kenya Medical Practitioners and Dentists Union (KMPDU)

nec@kmpdu.org


.....
George M. Gibore - General Secretary

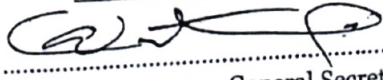
2 Kenya Union of Clinical Officers (KUCO)

kuconeco01@gmail.com / 0798 133 674


.....
Pius Nyakundi - General Secretary

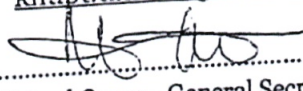
3 Kenya National Union Medical Laboratory Officers (KNUMLO)

knumlo2022@gmail.com


.....
Elias Mutuma - General Secretary


4 Kenya National Union of Pharmaceutical Technologists and Officers (KNUPT)

knupt.union@gmail.com


.....
Michael Ouma - General Secretary

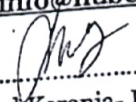
5 Kenya Union of Nutritionists and Dietitians (KUNAD)

info@kunad.org


.....
Peter Ayieko - General Secretary

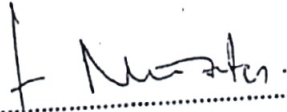
6 National Union of Biomedical Engineers of Kenya (NUBEK)

info@nubek.or.ke

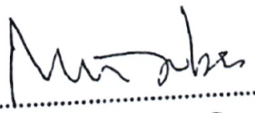

.....
Samuel Karanja - Hon. Secretary

7 Society of Radiography in Kenya (SORK)

info@sork.or.ke


.....
Moses Lore - Secretary General

8 Kenya Health Professional Society (KHPS)


.....
Mohamed Duba - Secretary General

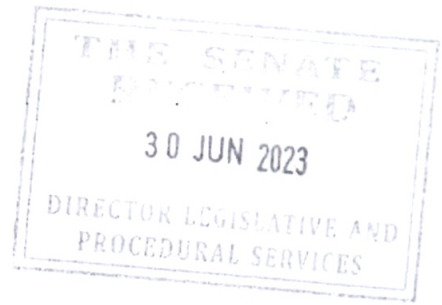
9 Association of Public Health Officers (APHOK)

aphok@aphok.org

The Clerk of the
Senate Parliament
Buildings P.O. Box
41842 - 00100
NAIROBI

Email: senate.petitions@parliament.go.ke

29 JUN 2023



RE: PETITION TO THE SENATE CONCERNING UNFAIR TREATMENT OF THE COVID HEALTH EMERGENCY RESPONSE PROJECT (CHERP) STAFF AFTER THE PANDEMIC

We, the undersigned,

Citizens of the Republic of Kenya, Covid 19 specialists and warriors and members of the Covid Health Emergency Response Project [CHERP]

*Mr. D. Chania, PAE
Please deal
03/07/2023*

*DLPS
Please deal.
30/6/23*

DRAW the attention of the Senate to the following:

1. **THAT**, Between July of 2020 and April of 2021, a number of cohorts were employed by ministry of health to fight covid-19 pandemic across the country under the Covid health emergency response project - CHERP.
 - 1.1 We were released from the service after two years of selfless service which left the facilities with a significant shortage of staff.
 - 1.2 CHERP health-care workers served at national level and others were deployed to three main areas that were key in fighting Covid-19;
 - a) Covid-19 isolation centers
 - b) Covid-19 testing facilities
 - c) Ports of entries.
 - 1.3 We are disturbed and demotivated by these as we had valid expectations that we would be absorbed on permanent and pensionable terms.
 - 1.4 We have been unable to secure any other job in the public sector since we are never given any priority in the rarely advertised jobs and no county government recognizes our efforts.

*③ Ms. Mackaria
Please reinitiate
petition within the
timelines and facilitate
D. Chania
07/07/2023*

*④ Ms. Belinda
Please process the
petition.
A. Magbana*

- 1.5 None of our staff members was recognized by the government for their selfless devotion in fighting the pandemic when everyone else was in lockdown. Every other health-care worker was afraid of working at the covid-19 treatment, isolation and testing centers. We didn't deserve such treatment.
- 1.6 We contracted the covid-19 while on our line of duty and some of us succumbed to the disease.
- 1.7 Our UHC counterparts who were employed to build the capacity across the health sector have had their contracts renewed pursuant to the Health CS's letter to the council of governors dated 31st May 2023 of reference no: MOH/ADM/Vol/II/58, which highlighted that the government had granted approval for renewal of 8571 individuals who had been contracted by UHC on the previous contract.
- 1.8 Working for the government of Kenya should not be a regrettable decision; instead, it should be a celebrated milestone for every aspiring job seeker in the country.
- 1.9 The Ebola outbreak front-line warriors were all employed by the ministry of health on permanent and pensionable terms, after the epidemic was contained.
- 1.10 The ministry of health has allocated Ksh3.7B to the Kenya COVID-19 Emergency Response from the ministry's total budget for financial year 2023-2024, as highlighted by the Treasury CS.
2. **THAT**, Article 259 of the constitution provides that the constitution must be interpreted in a manner that promotes its purposes, values and principles; advances the rule of law and human rights and the fundamental principles in the Bill of Rights. Permits the development of the law and contributes to the good governance.
 - 2.1 The law disallows discrimination in the process of recruitment, training, promotion, terms and conditions of employment, termination of employment and other matters related to employment.
 - 2.2 In the current Kenyan constitution under chapter four, the bill of rights,
Article 55: Youth
 - ❖ The state shall take measures, including affirmative action programs, to ensure that the youths;
 - a) Access relevant education and training

- b) Have opportunities to associate, be represented and participate in political, social, economic and other spheres of life
- c) Access employment
- d) Are protected from harmful cultural practices and exploitation.

■ Furthermore, the employment act advocates for the youth to be employed by the government.

3. **THAT**, we have made the best efforts to resolve these matters with the ministry of health severally without success.

4. **THAT**, The senate has powers to find a solution to these discrimination and unfair labour practices.

Petition to the Senate by [] concerning

[
]

- b) Have opportunities to associate, be represented and participate in political, social, economic and other spheres of life
- c) Access employment
- d) Are protected from harmful cultural practices and exploitation.

■ Furthermore, the employment act advocates for the youth to be employed by the government.

- 3. **THAT**, we have made the best efforts to resolve these matters with the ministry of health severally without success.
- 4. **THAT**, The senate has powers to find a solution to these discrimination and unfair labour practices.

Petition to the Senate by [] concerning

[
]

5. THAT, none of these issues raised in this Petition is pending in any court of Law, Constitutional or any other legal body.

WHEREFORE, your humble petitioners pray THAT,

The Ministry of Health;

- i. Grants us another contract like it has treated the 8571 individuals under UHC programme.
- ii. Absorbs us into permanent and pensionable establishment as it was for the ebola front-line warriors.
- iii. Consolidate us with the UHC staff so that we can join the service when they sign their next contract.

Dated this 27th day of June 2023.

No	NAME	ADDRESS	I.D.No.	SIGNATURE
1.	Doreen B Orin's	0797623652	33070539	
2.	Rebecca N. Nyabuto	0708797742	28099280	
3.	Billy Klabu	0728517655	324428115	
4.	Kevin Kiarie	0706884232	29439597	
5.	Isaac Omwenga	0717803411	29713570	
6.	Sophia Kitui	077869924	30454644	

If presented by a Senator:

Counter signed by Senator _____, Senator for _____
County.

Sen. CHERAZKEY K. SIMSON Senator for NANDI County

: 29th June 2023.



26 JUL 2023

MINISTRY OF HEALTH OFFICE OF THE CABINET SECRETARY

Telephone: Nairobi 254-020-2717077
Email: cs@health.go.ke

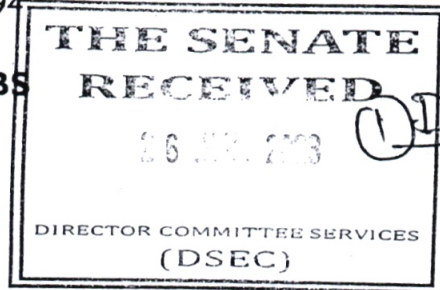
AFYA HOUSE
CATHEDRAL ROAD
P. O. Box 30016 - 00100
NAIROBI

When replying please quote:

REF: MOH/ADM/Vol II/94

20th July, 2023

Mr. J.M. Nyegenye, CBS
Clerk Of The Senate
Parliament Buildings
P.O. Box 41842-00100
NAIROBI



① DSEC
Kindly deal
26/07/23
② Hon. Ms. Kibati
Kindly deal
26/07/23

RE: RESPONSES TO REQUEST FOR STATEMENTS FROM STANDING COMMITTEE ON LABOUR AND SOCIAL WELFARE

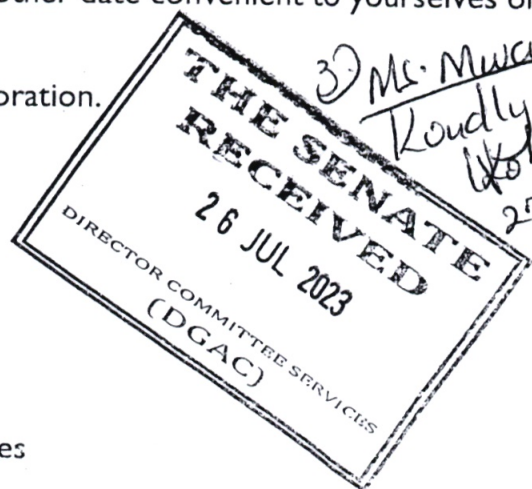
Reference is made to various letters from the Senate Standing Committee on Health as enumerated in the enclosed index.

Find for your forwarding to the Standing Committee on Labour and Social Welfare, the Ministry's responses to the questions raised by Hon. Members of Senate.

Reference is also made to your summons dated 17th July, 2023 inviting me for a meeting on Thursday, 27th July, 2023 at 10.00 a.m. I regret to inform you that I will be out of the country on official duty but will be available on another date convenient to yourselves on the 1st week of August.

Thank you for your continued support and collaboration.

NAKHUMICHA S. WAFULA,
CABINET SECRETARY



③ Ms. Mwanate
Kindly deal
Wobah
27/07/23

Encl.

Copy to: **Principal Secretary**
State Department for Medical Services

Principal Secretary
State Department for Public Health and Professional Standards



MINISTRY OF HEALTH

RESPONSE TO SENATE STANDING COMMITTEE ON LABOUR & SOCIAL WELFARE ON THE UNFAIR TERMS AND CONDITIONS FOR UNIVERSAL HEALTH COVERAGE (UHC) AND DELAY IN INTERNSHIP POSTING.

The Ministry of Health refers to communication from the Senate Standing Committee on Labor & Social Welfare vide letter Ref: SEN/DSEC/SCLSW/2023/121 dated 4th July 2023 on the above subject matter.

The committee raised concerns on the unfair terms and conditions for Universal Health Coverage (UHC) and delay in internship posting.

I. Concerns on UHC Staff

Response:

Honorable Chair, Honorable Members,

My Ministry and the County Public Service Boards recruited the UHC staff in the year 2020 a time when the country was battling the COVID-19 pandemic and the country was facing a serious shortage of healthcare workers with the rising number of COVID-19 cases combined with the economic disruptions due to the disease. The entire healthcare system was overstretched and nearly crumbled due to the pandemic.

As the future of the pandemic was unknown and to ensure the healthcare system remained resilient to serve the rising COVID-19 cases, the government offered a call for recruitment of healthcare workers with a stipend of Kes. 50,000 for Diploma and Kes 40,000 for certificate holders. The recruitment of this surge staff was also aimed at cushioning families who may have not only lost their loved

ones, but also suffered job losses due to economic disruptions caused by the pandemic due to our fragile social safety nets

My Ministry in consultation with the Public Service Commission has renewed contracts of all the UHC Staff.

To facilitate the renewal, my Ministry in consultation with the County governments, Public Service Commission and the National Treasury conducted an audit of the existing UHC Staff to confirm the actual numbers on the ground before a commitment for renewal was undertaken by the counties.

The county governments submitted the required personnel details for analysis and comparison per county by the Public Service Commission which then approved the submitted list for contract renewal by the County Public Service Boards.

The Ministry further wrote to the counties, on 31st May 2023, letter Ref. No. MOH/ADM/Vol 11/58 through the Council of Governors to proceed with the renewal of contracts on the same terms.

Additionally, the formed a Multi-Agency Taskforce which included the Council of Governors, County Executive Committee Members for Health representatives, County Public Service Boards representative, Public Service Commission and The National Treasury looked at the current terms and conditions with the purpose of optimizing the program gains and ensuring value for money.

The Taskforce is currently looking at the options and strategies for the ultimate transitioning of the UHC staff employment conditions to permanent and pensionable terms. This transition to P&P will cost estimated KSH. 7.2B compared to current allocation of KSH. 4.2 B. My Ministry will be happy to share

the final position on this matter once the ongoing discussions with the National Treasury are completed.

Concerns on delay in internship posting.

Response:

Honorable Chair, honorable Members,

My Ministry recognizes and appreciates the role interns play in health service delivery as in most Level 4, 5 and 6 facilities they are the first point of contact for the patients seeking healthcare services.

Internship is a compulsory experiential learning in health care services, where interns build upon previously acquired knowledge and experiences by working within a professional work setting. Internships are designed to allow eligible learners enhance their knowledge and improve on their technical competencies.

It entails mentorship and apprenticeship to integrate and consolidate knowledge received by the learners during their college studies with clinical work. This helps them in developing and improving their necessary skills to practice and serve the public in a safe and satisfactory way.

It is important to note that the number of universities training healthcare workers has increased significantly over a period, which is good for our increasing population, but the personnel emoluments budget for the Ministry has not increased in tandem to cater for the increasing number of graduate healthcare workers. Therefore, I will continue to seek the indulgence of your esteemed committee for increased budgetary support to cater for this increasing need.

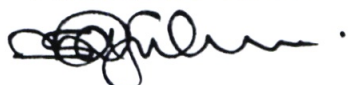
Honorable Chair, honorable Members,

In the last fiscal year, the Ministry posted out a batch of 889 medical officer interns among other cadres to the approved public and private hospital internship centers in January 2023. In the current fiscal year, my Ministry has posted a total of Four Thousand, One Hundred and Twenty-Nine (4,129) interns:

1. Medical Officers 325
2. Pharmacists 469
3. Dental Officers 25
4. Clinical Officers (BSc) 506
5. Clinical Officers (Diploma) 1930
6. Nursing (BSc.) 874

My Ministry has also operationalized the National Internship Coordination Committee as defined in the Internship policy for healthcare professionals 2020 and Internship Policy and Guideline 2022, to steer health sector internship programs.

Honourable Chair, I submit.



NAKHUMICHA S. WAFULA

CABINET SECRETARY

REPUBLIC OF KENYA



MINISTRY OF HEALTH

**INTERNSHIP POLICY FOR
HEALTH CARE
PROFESSIONALS**

FEBRUARY 2020

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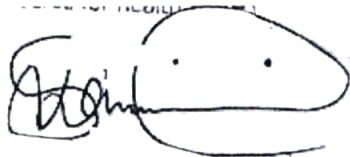
FOREWORD

The Ministry of Health, in an effort to improve the quality of healthcare provision in Kenya, and address a critical resource in the implementation of Universal Health Coverage (UHC), has designed an internship programme aimed at creating opportunities for clinical attachment of graduates from different institutions training health professionals. The clinical placement is competency-based training with the aim of consolidating and integrating knowledge acquired during college studies with clinical and field work to impart the requisite skills for service delivery.

Internship in the health sector is recognized as a compulsory experiential learning, when graduates build upon previously acquired knowledge and experiences by working within a professional work setting. Previously internship placements have been undertaken without a guiding policy or formal support structures in the health sector resulting in inequity in allocation of the available opportunities. This policy will ensure that the internship programme for health professionals is effectively and efficiently managed and monitored to ensure provision of quality health services. Furthermore, it demonstrates the Ministry's commitment to ensuring a health workforce that is competent to provide the highest possible standards of health, in a manner responsive to the needs of the population.

This policy advocates for the establishment of necessary support structures and privileges for all interns. It specifically sets to harmonize the scope, management, coordination and monitoring of internship in both public, faith-based and privately-owned health care facilities in Kenya. Overall coordination will remain with the Ministry of Health through a National Steering Committee.

It is envisaged that the policy will guide the establishment of new training and internship sites. In addition, it will create an opportunity to capture newly qualified graduates from local and international institutions, thereby creating a pool of competent health professionals with the aim of closing the existing gap of human resource for health (HRH).



SICILY K. KARIUKI (MRS.), EGH

CABINET SECRETARY

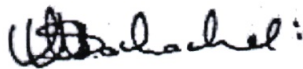
MINISTRY OF HEALTH

Executive Summary

This Internship policy for Health care Professionals addresses the uniqueness of internship as a regulatory requirement for various professional cadres within the Kenyan Health Sector. It complements and is implemented alongside the Internship Policy and Guidelines 2016 by the Public Service Commission in Kenya. It is structured to align to the provision of the Constitution of Kenya 2010, Schedule four that defines the functions of the national and county government. Its aligned to the Health Act 2017 and Health Laws (Amendment) 2019.

The national government has the mandate for capacity building and technical assistance to the counties hence Internship programme is a national government function. Its implementation is structured along the coordination system of the national government as well as the county, sub-county and facility health service delivery systems. It lays down the roles and responsibilities of the various actors.

The implementation of this policy will be monitored and evaluated to inform improvement and future policy decisions.



SUSAN N. MOCHACHE, CBS
PRINCIPAL SECRETARY
MINISTRY OF HEALTH

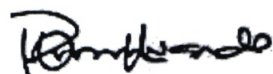
Acknowledgement

The Internship Policy for Health Care Professionals was developed through a participatory process that included a series of consultations led by the Directorate of Health Standards, Quality Assurance and Regulation.

The participation included various Directorates, Departments and Divisions of the Ministry of Health (MOH), County government representatives, the Public Service Commission, Salary and Remuneration Commission, The National Treasury, Ministry of Devolution, training institutions, Professional Associations and regulatory bodies.

I take this opportunity to extend my gratitude to all the MOH staff, other government agencies, development and implementing partners and all other stakeholders who contributed to the development and review of this policy. I particularly appreciate the role played by the team led by Dr Simon Kibias, Dr Lucy Musyoka and Dr Boniface Kimuyu towards finalization of this document.

I wish to extend special recognition and appreciation to Intra health International through its USAID-HRH Capacity Bridge Project, for their support during the process of development of this policy.



DR PATRICK AMOTH
AG. DIRECTOR GENERAL FOR HEALTH
MINISTRY OF HEALTH

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Abbreviations and Acronyms

CECM	County Executive Committee Member
CIC	County Internship Coordinator
CIIC	County Internship Implementation Committee
COC	Clinical Officers Council
COG	Council of Governors
COHO	Community Oral Health Officers
FIC	Faculty Internship Coordinator
FIMC	Facility Internship Management Committee
HODs	Heads of Directorates
ICK	Interreligious Council of Kenya
KHHRAC	Kenya Health Human Resource Advisory Council
KHPOA	Kenya Health Professions Oversight Authority
KMLTTB	Kenya Medical Laboratory Technicians & Technologists Board
KMPDC	Kenya Medical Practitioners and Dentists Council
KNDI	Kenya Nutritionists & Dieticians Institute
KPHA	Kenya Private Hospitals Alliance
M&E	Monitoring and Evaluation
MOH	Ministry of Health
MTEF	Medium Term Expenditure Framework
NCK	Nursing Council of Kenya
NICC	National Internship Coordination Committee
NISC	National Internship Steering Committee
PHOTC	Public Health Officers and Technicians' Council of Kenya
USAID-HRH	United States Agency for International Development- Human Resources for Health
WHO	World Health Organization

Glossary of Commonly Used Terms

Boards and Councils: Refers to the government agencies authorized by law to license and regulate the training and practice of professional health practitioners.

Contract of Service: Means an agreement whether oral or written, expressed or implied, to employ or to serve as an employee for a period of time, and this includes a contract of apprenticeship but does not include a foreign contract of service

Health Professional: An individual who provides preventive, curative, promotive, rehabilitative and palliative health care services in a systematic way to people, families or communities.

Intern: Is a health professional graduate that is undergoing practical supervised training and mentorship in a health institution, recognized by the relevant regulatory Board or Council, in order to obtain registration and a license to practice

Internship: A prescribed period of compulsory hands-on training for health professionals, which is a legal requirement to practice after graduation from an approved training institution

Internship Centers: These are health facilities that are approved and accredited by the relevant regulatory bodies and the Ministry of Health as training centers.

Internship Coordinator: A Senior member of staff responsible for organizing the internship programme at an approved centre, ensuring there is a proper setting and mechanism for supervision and monitoring of performance of the interns.

Internship Mentor: A health professional within a rotation who interacts with interns on a day to day basis for purposes of imparting appropriate attitude, knowledge and practical skills. Mentors are multi-disciplinary

Internship Preceptor: An instructor, expert or specialist who teaches, gives practical experience, counsels, coaches and serves as a role model and supports the growth and development of an intern in a particular discipline for a specified time period, with the specific purpose of socialising the novice in a new role

Internship Supervisor: A head of department/unit where the intern gets his/her training and is the first person in line for responsibility of interns.

Soft skills: Skills that are hard to observe, quantify or measure but are necessary for day to day professional growth (e.g. team work, time management, leadership and etiquette).

1. Introduction

Internship in the health sector in Kenya is recognized as compulsory experiential learning, where graduates build upon previously acquired knowledge and experiences by working within a professional work setting. Internships are designed to allow graduates enhance their professionalism and gain career knowledge through hands-on training for a prescribed period of time. It is also a legal requirement for some cadres of health professionals to undergo internship after graduation from an approved training institution. It is a core component of training to integrate the knowledge received by the graduates during their college studies with the clinical work in a way that will consolidate what they have learned. This will help them in developing and improving their necessary skills to practice and serve the public in a safe and satisfactory way.

Training of healthcare professionals in Kenya began in the pre-independence era. Since then, more formal internship programs for different cadres have been developed. However, internship placements have been done without set guidelines. In addition, the number of institutions and graduates has increased; disproportionate to the placement positions available for interns thus leading to a long waiting period. Further to this, more healthcare professionals' cadres are initiating internship thereby increasing the complexity in management of the internship programmes.

In line with the Constitution of Kenya, 2010 [Schedule 4], Health Act, 2017 and Kenya Health Policy, 2014-2030; capacity building is a function of the National Government while health service delivery is largely a function of the County Governments. This necessitates the development of a policy to guide the smooth implementation of the internship programme.

Completion of an approved internship is mandatory to achieve registration as a practitioner with the relevant regulatory body. As of now, medical officers, dentists, pharmacists, nurses, clinical officers, public health officers, physiotherapists, and Nutritionists and Dieticians undergo internship training in government, private and faith-based institutions. However, there is no policy in place to guide the internship training.

This policy will guide the establishment of new training and internship sites, creating an opportunity to serve newly qualified graduates from local and international

institutions thereby creating a pool of competent health professionals who can be drawn upon to improve the health worker/ population ratio.

1.1 Rationale of the Policy Development

Internship is a legal requirement for registration to practice after graduation. For purposes of planning and projection, this internship policy is vital as the healthcare professional to population ratio is undesirably low. World Health Organization (WHO) recommends a workforce density of 230 health professionals per 100,000 population as it assumes that the relative number of health professionals in a given area is one of the most important determinants of the ability to deliver health services. Kenya is below the WHO recommendations at approximately 169 health professionals for every 100,000 people.

Considering that internship is a legal requirement to practice, the current waiting period by several cadres of staff to undertake internship has resulted in a shortage of health professionals in the sector. To address this, the policy will guide the establishment of new training and internship sites, creating an opportunity to capture newly qualified graduates from local and international institutions and thus create a pool of competent health professionals who can be drawn upon to improve the ratio. Interns are a critical component of human capital, even while still under supervision as they augment quality health service provision in the backdrop of severe staff shortages.

This policy advocates for the necessary support structures and privileges. It underscores the importance of mentorship and hands on skills acquisition where principles of fairness and quality service through standard training are instilled. As interns are from public, private and foreign-based institutions which have different approaches in training, this policy will standardize and harmonize requirements and provisions for the internship programme in the health sector in Kenya.

The policy will ultimately contribute to an improvement of quality of health care in line with Kenya Vision 2030 that seeks to improve the overall livelihoods of Kenyans by providing an efficient and high-quality health service delivery of the highest attainable standards.

1.2 Mandate

The Mandate of this policy is drawn from the existing legislative and Policy framework enacted for various health professionals as enumerated below;

1. The Constitution of Kenya, 2010
2. The Public Service Commission Internship Policy
3. The Kenya Health Policy, 2014-2030
4. Health Act, 2017
5. The Kenya Medical Practitioners and Dentists Act, CAP 253
6. The Pharmacy and Poisons Act, CAP 244
7. The Nurses Act, CAP 257
8. The Clinical Officers Training, Registration and Licensing Act 20 of 2017
9. The Public Health Officers (Training, Registration and Licensing) Act No.12 of 2013
10. The Physiotherapists Act No. 20 of 2014
11. The Nutritionists and Dieticians Act, CAP 253b
12. The Medical Laboratory Technicians and Technologists Act ,1999, CAP 253a
13. Any other law or policy that may come into effect.

Additionally, this policy operationalizes the Internship Policy for the Public Service as outlined in sections 2.5.1 and 3.2 in the aforesaid policy.

1.3 Scope of Internship Policy

The policy shall apply to all health professionals for whom internship is a legal requirement. Graduates trained from recognized training institutions within and outside Kenya will be eligible for internship deployment once cleared by their respective regulatory bodies.

2. Policy Direction

2.1 Overall Goal

The goal of the policy is to attain a well-managed internship programme for all health professionals to ensure effective and quality healthcare service delivery.

2.2 Main Objective

The main objective of the policy is to harmonize internship programme in the health sector in Kenya through a unified management approach.

2.2.1 Specific Objectives

- i) Define the scope of the internship training
- ii) Enhance professional competence among graduates contributing to graduates' professional development and employability
- iii) Ensure the legal requirement for registration by professional bodies are fulfilled
- iv) Define the roles and responsibilities of the stakeholders/ actors during internship
- v) Improve coordination, collaboration, management, monitoring and evaluation of internship programme.

3. Policy Guidelines

3.1 Policy Issue Concept

This policy is developed on the basis of the principles laid out in the Constitution of Kenya, 2010, Chapters 6 and 13 as follows;

- a) Leadership and integrity
- b) Objectivity and impartiality in decision making, and in ensuring that decisions are not influenced by nepotism, favoritism and other improper motives or corrupt practices while regarding equity
- c) Gender and sensitivity to marginalized or disadvantaged groups
- d) Transparency, provision of accurate and timely information
- e) Dignity
- f) High standards of professional ethics, excellence and quality
- g) Consistency with other relevant legislation
- h) Fiscal responsibility; accountable, effective, efficient and economic use of resources.

3.2 Policy Statements

3.2.1 Internship training

There is hereby established internship program to guide training of health professionals as prescribed by the various Acts of parliaments that regulate their practices.

3.2.2 Internship Duration

The internship period shall be as per legal requirement of each professional body. This period will be subject to review from time to time. Placement of interns will be continuous throughout the year in a coordinated manner. This period may be extended in exceptional circumstances in consultation with respective regulatory bodies and the parent ministry.

3.2.3 Internship Training Centres

Internship training centers shall be undertaken in institutions gazetted for this purpose by the Cabinet Secretary of Health following accreditation by relevant regulatory bodies. Inspection of facilities for purposes of accreditation to ensure adherence with established norms and standards will be jointly coordinated by Kenya Health Professions Oversight Authority (KHPOA).

3.2.4 Compensation of Interns

Internship shall be considered part of pre-service training; hence interns within the government-funded Programme shall be provided with a compensation package, in a form of a stipend, on a monthly basis for the entire placement period. This is to enable them meet their basic needs as they provide critical service within the public sector and contribute significantly to the delivery of health care. The compensation package for Government-funded interns deployed in public health institutions shall be harmonized across all counties.

For purposes of planning, training institutions and regulatory bodies shall be required to submit to the National Internship Steering Committee (NISC), internship projections over a three-year period alignment to the MTEF budget process. The Ministry of Health in collaboration with the Public Service Commission (PSC) shall establish the authorized staff establishment for all cadres of interns.

3.2.5 Waiver of Internship

Internship for health professionals may be waived in line with the regulatory bodies' guidelines and legal instruments.

3.2.6 Internship Management Committees

The following committees shall be established for purposes of management of the internship programme;

3.2.6.1 National Internship Coordination Committee (NICC)

The following shall constitute the membership of the NICC:

1. The Director General for Health or alternate shall be the Chairperson of the Committee
2. Head of Human Resource Management and Development in the Ministry of Health will be the Secretary of the Committee
3. One (1) Representative from Council of Governors (CoG)
4. One Representative of County Directors of health
5. One (1) representative from KHPOA
6. One (1) representative from Kenya Health Human Resource Advisory Council (KHRAC)
7. One (1) representative from Kenya Private Hospitals Association
8. One representative of universities/colleges responsible for training health professionals
9. One (1) representative from middle level colleges training health professionals
10. One (1) representative from Faith Based Institutions that offer internship Programme.

3.2.6.2 County Internship Implementation Committee (CIIC)

The following members shall constitute the CIIC:

- i) County Director of Health, who will be the Chairperson
- ii) Head of Human Resource Management and Development in the county will be the Secretary of the Committee
- iii) One person representing the interest of the public
- iv) One representative from the private health sector

3.2.6.3 Facility Internship Management Committee (FIMC)

The following members shall constitute the FIMC:

- i) Head/ in-charge of the internship centre who will be the Chairperson
- ii) Officer in charge of Human Resource who will be the Secretary.
- iii) Facility Internship Coordinator

- iv) Heads of health professionals undertaking internship in the internship centre.

3.2.7 Professional Liability

All Interns should be supervised at all times. Therefore, the specific internship institutions under which the intern is assigned shall be liable for the actions and omissions committed by the intern in the exercise of his/her profession. However, the institution shall not be liable for acts committed through personal responsibility and negligence of the intern. All interns will be expected to have an indemnity insurance cover.

3.2.8 Intern Entitlement and Terms of Engagement

An intern will be entitled to the following:

- i) Sick leave as applicable in the prevailing employment and labour laws;
- ii) Compassionate leave as applicable in the prevailing employment and labour laws; and

The period of engagement shall be on the basis of contract of service in line with the respective legal framework. Interns will not be charged internship fees by any health facility and regulatory bodies. Aggrieved interns will be free to submit their concerns to the County Internship Implementation Committee. The National Internship Coordinating Committee shall advise on cases of interns who for one reason or the other are not able to complete the internship as prescribed by their respective regulatory body and who will therefore not be eligible for employment.

3.2.9 Employment

Employment after internship shall be subject to availability of vacancies in the health sector.

4 Roles & Responsibilities/ Obligations

4.1 Preamble

This policy outlines various roles and responsibilities of the various actors who shall be involved in the internship programme as indicated below.

4.2 The National Internship Coordination Committee

The Committee shall be the overall organ in charge of regulating the matters relating to the internship programme. It will have the following responsibilities;

1. Determine and publish the internship programme schedules
2. Approving and publishing the number, distribution and placement of interns to various gazetted internship centers
3. Receive and deliberate on both Financial and Technical quarterly Internship reports to the National Internship Coordinating Committee.
4. Receive the county reports of interns who have successfully completed the stipulated internship period and forward to the regulatory bodies for recognition.
5. Receive the county reports of unsuccessful interns, deliberate on the recommendations from the County Internship Management Committee and make appropriate recommendations to the relevant regulatory bodies
6. Monitor, review and evaluate the implementation of this policy
7. Disseminate the policy document and other relevant guidelines to key stakeholders
8. Promote best practices, innovation, harmony across cadres to promote teamwork

The committee shall determine their conduct of business in accordance to best governance practices.

4.3 County Internship Implementation Committee

There shall be a County Internship Implementation Committee that shall provide

oversight on the implementation of the Internship program.

The committee will have the following responsibilities;

1. Coordinate and supervise the internship programme
2. Submit both Financial and Technical quarterly Internship reports to the National Internship Coordinating Committee.
3. Preside over the welfare of the interns, including facilitation to access reasonable accommodation for ease of access and security purposes
4. Receive and deliberate over the administrative and disciplinary matters of referred cases from facilities
5. Arbitrate as an appeal body for interns where required and communicate the outcome of the appeal to the National Internship Coordinating Committee
6. Receive and deliberate on complaints by interns
7. Ensure the standards and quality of internship training as per the regulatory bodies' guidelines are maintained
8. Receive reports on the final assessment reports from internship centers within the County.

4.4 Facility Internship Management Committee

There shall be a Facility Internship Management Committee in all internship centres that shall meet at least quarterly with a two-third quorum.

The committee will have the following responsibilities;

- 1) Coordinate and supervise the internship programme within the facility
- 2) Preside over the welfare of the interns and ensure that all interns are supervised at all time.
- 3) Preside over the administrative and disciplinary matters and escalate to relevant authorities
- 4) Preside over the final assessment of the interns
- 5) Receive and deliberate on complaints of interns
- 6) Ensure the standards and quality of internship training as per the regulatory bodies guidelines are maintained
- 7) Develop and transmit reports on the internship program to the County

Internship Coordination Committee.

4.5 Facility Internship Coordinator

The facility Internship Coordinator will have the following responsibilities;

- 1) Ensure all the interns in the internship centre are inducted and orientated at the beginning of their internship period
- 2) Prepare a master rotation for the interns
- 3) Ensure that the interns are provided with necessary educational support and a conducive work environment during their entire training period
- 4) Validate the internship logbook at regular intervals and ensure documentation of the competencies are complete
- 5) Collaborate with the leadership of the internship centre and the National Internship Coordination Committee to ensure successful implementation of the internship program
- 6) Ensure the overall welfare of interns in the internship centre and ensure they are supervised at all time.
- 7) Present to the CICC a report on the internship program periodically

Facility Internship Management Committees in the National Health Referral facilities will report to the National Internship Coordinating Committee.

4.6 Head of Facility Department (HOD)/ Supervisor

The Head of Department (HOD)/ Supervisor's responsibilities are:

- 1) Induct and orientate the interns within the department
- 2) Respond to the educational needs of the interns and facilitate teaching and learning
- 3) Attest to the acquisition of the expected level of competency by intern at the end of the training in that particular department and ensure comprehensive completion of the necessary entries in the Interns' Logbook.
- 4) Aid the intern in acquiring soft skills, communication and documentation in addition to competencies in their respective fields
- 5) Identify areas where the intern may not have acquired the requisite

competency and suggest corrective measures.

- 6) Ensure adherence to occupation and patient safety standards.
- 7) Assist the intern in learning the importance of ethics and professionalism
- 8) Conduct investigations on instances of professional misconduct raised against an intern and advise accordingly.

The specific responsibilities of the HOD's for different cadres are further elaborated in the guidelines of the respective regulatory bodies.

4.7 Facility-Based Intern Mentor/ Preceptor

The Mentor/ Preceptor will have the following responsibilities;

- 1) Interact with interns on a day to day basis for purposes of imparting appropriate attitude, knowledge and practical skills
- 2) Monitor interns adherence to the set rules and regulations
- 3) Aid the intern in acquiring soft skills, communication, documentation and competencies in their respective fields
- 4) Respond to the educational needs of the interns and facilitate learning
- 5) Ensure that common precautions observed in the internship centres are learnt and followed by the intern to ensure safety of self, clients and present staff during the training process
- 6) Assist the intern in learning the importance of ethical and legal procedures
- 7) Guide the interns in the realization of their learning objectives. The mentor must give each intern individual attention
- 8) Address the welfare of the intern
- 9) Contribute to the appraisal of the interns by the Internship Supervisor.

The specific responsibilities of the Mentor for different cadres are further elaborated in the guidelines of the respective regulatory bodies.

4.8 Obligations of an Intern

The obligations of an intern shall include the following:

- 1) Gather the relevant documents required to facilitate the internship training and present them to the supervisor as per the guidelines of the regulatory bodies
- 2) Complete internship as per the guidelines provided by the regulatory bodies
- 3) Adhere to all the rules and regulations as shall be stipulated by the Ministry of Health, County and Facility coordinating mechanisms, the code of professional conduct, regulatory boards and the rules of the internship centres as long as they are part of the internship program.
- 4) Maintain a professional demeanour and conduct including promoting harmony, teamwork and innovation across cadres
- 5) Seek guidance/ opinion of their supervisor/ mentor in decision making
- 6) Cover the entire Intern's Logbook with daily documentation as per the requirements
- 7) Will ensure that they have a medical and indemnity insurance cover

The specific responsibilities of the interns of different cadres are further elaborated in the guidelines of the respective regulatory bodies.

4.9 Regulatory Bodies

The Regulatory bodies will have the following responsibilities;

- 1) Develop programs consistent with the fulfilment of the learning objectives for the internship program
- 2) Review the duration of internship
- 3) Develop the norms and standards as an evaluation criteria for the internship program
- 4) Accreditation, revocation and suspension when necessary of internship centres
- 5) Undertake periodic inspection of established internship centres for the purposes of retention of accreditation

- 6) Set the criteria to be fulfilled by applicants to be allowed to undertake internship
- 7) Administer pre-internship examination where necessary
- 8) Issuance of provisional internship licenses
- 9) Develop mentorship, training guidelines and log books for assessment of internship
- 10) Registration of health professionals after due successful completion of internship
- 11) Dissemination of code of professional conduct and collaboration with the respective internship committees to institute disciplinary measures including professional negligence.

5. Policy Implementation

5.1 Institutional Framework

The following institutions will be responsible for implementation of this policy:

- 1) Ministry of Health
- 2) The National Treasury
- 3) Ministry of Public Service, Youth and Gender
- 4) Public Service Commission
- 5) County Governments
- 6) Health Professional Regulatory and advisory bodies
- 7) Accredited Internship Training Centres.

5.2 Implementation Responsibilities

1. Ministry of Health

- Planning and coordination for internship program
- Monitor quality of internship centres in collaboration with Regulatory Bodies
- The principal secretary appoints the National Internship Coordinating Committee members

2. The National Treasury

- Financing the management and coordination of the internship programme and payment of stipends to Government-funded interns.

3. Public Service Commission

- Overall coordination of the Government internship programme and providing for the authorized establishment of interns.

4. County Governments

Providing an enabling environment for internship. This will include facilitating or supporting interns to access the facility. Further, the county governments will maintain the quality of internship centers under their jurisdiction.

- The Chief officer Health to appoint the County Internship Implementation Committee

5. Regulatory and advisory bodies
 - Design, develop and monitor internship program as per their respective mandates.
6. Gazetted internship training centres
 - Providing an enabling environment for training of interns.
7. Private Health Facilities
 - Provide an enabling environment for internship and provide stipends to interns

5.3 Tools for Implementation of the Policy

This policy shall be used in line with other relevant policies, rules and guidelines including but not limited to:-

1. The Constitution of Kenya, 2010
2. The Health Act, 2017
3. The Health Laws (Amendment) 2019
4. Kenya Health Policy, 2014-2030
5. Internship Policy and Guidelines for the Public Service, 2016
6. Human Resource Policy and Procedure manual
7. Regulatory Statutory Acts and Internship Guidelines
8. Internship Implementation Strategy
9. Any other law that may come in force
10. Kenya Health Sector Human Resource Strategy

6. Monitoring and Evaluation

6.1 Preamble

An effective monitoring and evaluation (M&E) system is critical for the successful implementation of the internship policy. The system shall be put in place to promote evidence-based decision making involving stakeholders at all levels. Effectiveness of the framework put in place to monitor and evaluate this policy shall depend on the coordinated action of MOH.

In this regard, the MOH shall work closely with county governments, relevant line ministries, regulatory agencies and other stakeholders to ensure that there is an effective implementation of this policy. Further, it shall be expected that the partners shall develop their own frameworks and guidelines to monitor the activities that they will be implementing. The M&E system shall, therefore, seek to encourage communication between different stakeholders involved in national as well as county needs.

The MoH, with the relevant stakeholders, shall identify the appropriate and verifiable indicators for purposes of monitoring and evaluation of implementation of this policy.

6.2 Policy Review

The coordination committee, upon consultation with relevant stakeholders, will undertake review of the policy with a view to address emerging issues every five years.

Appendix: List of Existing Regulatory Bodies

1. Clinical Officers Council
2. Kenya Medical Practitioners and Dentists Council
3. Kenya Medical Laboratory Technicians & Technologists Board
4. Nurses and Midwives Council of Kenya
5. Pharmacy and Poisons Board, Kenya
6. Public Health Officers and Technicians' Council of Kenya
7. Radiation Protection Board
8. The Physiotherapy Council of Kenya
9. Kenya Nutritionists & Dieticians Institute.



COUNCIL OF GOVERNORS

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Our Ref: COG/6/40 Vol. 2 (32)

12th May, 2023

Mr. Jeremiah M. Nyegenye, CBS
Clerk of the Senate
NAIROBI

Dear Mr. Nyegenye

PETITION REGARDING THE UNFAIR TERMS AND CONDITIONS FOR UNIVERSAL HEALTH COVERAGE (UHC) STAFF AND DELAY IN THE INTERNSHIP POSTING

The above subject matter refers.

Reference is made to your letter **SEN/DSEC/SCLSW/2023/82** dated **8th May, 2023** inviting the Council to the Senate Standing Committee on Labour and Social Welfare.

The Council response on the issues raised is as highlighted below:

	ISSUE	STATUS	COG recommendation
1.	Unfair terms and conditions for Universal Health Coverage (UHC) staff	<p>In 2020, County Governments in collaboration with the Ministry of Health (MOH) and Public Service Commission (PSC) undertook recruitment of staff of different cadres. This was for a period of three (3) years, running from April 2022 to May 2023, under the Universal Health Care Program (UHC).</p> <p>The recruitment of a total of 9,681 health care workers was informed by gaps identified by county governments and shared with the MOH.</p> <p>Terms and Conditions The staff are supervised and managed by respective county governments but their payroll has been managed by the MOH since the inception of the program.</p>	<p>MoH to Extend contracts to avoid disruption in service and service delivery gaps</p> <p>National Government to provide conditional grants to County Governments for extension of contracts at the market rate salaries for staff managing this program</p> <p>The Management of UHC staff payroll to be transferred to County Governments</p>

		<p>Current status</p> <p>The contracts will lapse in May 2023 and given the financial situation across the 47, County Governments are not in a position to take up the payroll at the market rate salaries.</p>	
2.	Delay in internship posting	<p>Interns posting which is in-house training is the mandate of Ministry of Health. However, the perennial delay in posting interns has hampered smooth and uninterrupted service delivery due to inadequate human resource in the County facilities.</p>	<p>MoH to expedite posting of interns to facilitate their training clearance, registration and subsequent licensing to practice</p>

The purpose of this letter therefore, is to share the Council submission on the issues raised.

Our officers **Ms. Carolyn Mage** of Email: carolynemage@cog.go.ke, Mobile no. 0722 588 335 is available for further consultation on the confirmation for attendance.

Please be assured of our highest esteem and consideration.

Mary Mwiti
Chief Executive Officer



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Our Ref: CoG/6/40/3A Vol.2 (46)

21st June 2023

Through: Excellency Governors
To: All Chairpersons County Public Service Boards
All Secretaries - County Public Service Boards

CONTRACT RENEWAL FOR STAFF UNDER THE UNIVERSAL HEALTH COVERAGE (UHC) PROGRAM

Reference is made to Ministry of Health letter Ref. No. MoH/ADM/Vol. II /58 dated 31st May 2023 and the virtual meeting held on 5th June 2023, between COG, Chairpersons, Secretaries to the County Public Service Boards and County Chief Officers for Health. In the letter the Cabinet Secretary granted approval for renewal of contract for the UHC staff for another three (3) years under the same terms. In the virtual meeting the Council clarified the issues that were not clear and guided that County Public Service Boards to begin the process for the renewal of the UHC staff Contracts to enable the procedure to be seamless and avoid service disruption in the health facilities.

In view of the above and the urgency of the matter, the Council urges all County Public Service Boards commence the process of contract renewal for another three (3) years as guided by the Summit.

Our Officers **Ms. Carolyn Mage** and **Ms. Meboh Abuor** of carolynemage@cog.go.ke / meboh.abuor@cog.go.ke and phone 0722 588 335 / 0721 135 470 respectively will be available for any further clarification on the same.

Please accept assurance of our highest esteem and consideration.

Mary Mwiti
Chief Executive officer

Copy: All County Executive Committee members for Health
All County Secretaries
All County Chief Officers for Health
All County Directors for Health
All Directors for Human Resources for Health



COUNCIL OF GOVERNORS

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Our Ref: COG/6/40/Vol.2 (38)

2nd June 2023

Through: All Excellency Governors

To: All Chairpersons, County Public Service Boards
All Secretaries, County Public Service Boards
All County Chief Officers for Health

INVITATION TO A VIRTUAL CONSULTATIVE MEETING ON COUNTY GOVERNMENTS STAFF UNDER THE UNIVERSAL HEALTH CARE (UHC) PROGRAM

The above subject matter and letter from the Ministry of Health Ref. No: MOH/ADM/Vol. II/58 dated 31st May 2023 refers.

The Ministry of Health through the said correspondence communicated its commitment to the renewal of contracts for the UHC staff under the same terms. The letter did not mention the payment modalities, whether the attendant resources would be availed to Counties as conditional grants. It therefore follows that respective County Governments will issue the new contracts to the staff and make returns to the Ministry to enable them to continue processing the payroll as has been the practice.

The Council is aware that several counties have lost some of the workers under this program due to varied reasons, from the returns submitted to the Ministry. It is therefore important to discuss the next course of action to ensure the numbers are retained as they were at the start of the program.

In view of the above, we have scheduled a virtual meeting and invite the aforementioned County Officers to deliberate on the process of contract renewal to enable a smooth operation at the County.

The meeting is scheduled to take place on **Monday 5th June 2023** starting at 11:00am through the link below;

Join Zoom Meeting

<https://us02web.zoom.us/j/88214000737?pwd=NnpiTVhrZkltVFFvSE50ZjdiN1ZDdz09>

Kindly reach out to our Officer **Ms. Carolyn Mage** email carolynemage@cog.go.ke mobile 0722 588 335 / 0780 588 335 for any clarification and to confirm participation.

Please accept assurance of our highest esteem and consideration.

A handwritten signature in blue ink, appearing to read 'Mary Mwiti', enclosed within a blue oval.

Mary Mwiti
Chief Executive Officer

Copy:

All County Executive Committee Members for Health

All County Secretaries



**MINISTRY OF HEALTH
OFFICE OF THE CABINET SECRETARY**

Telephone: Nairobi 254-020-2717077
Email: cs@health.go.ke

AFYA HOUSE
CATHEDRAL ROAD
P. O. Box 30016 - 00100
NAIROBI

When replying please quote:

Ref. No. MOH/ADM/Vol II/58

31st May, 2023

H.E. Anne Waiguru, EGH,
Chairperson,
Council of Governors,
Delta House,
NAIROBI.

Dear *Chair,*

**CONTRACT RENEWAL FOR STAFF UNDER THE UNIVERSAL
HEALTH COVERAGE PROGRAM**

Reference is made to your letter Ref. COG/6/40 Vol 84 (3) dated 27th April, 2023.

We have since received communication from the Public Service Commission vide letter No: Ref. No. PSC/10/1(2) on the above subject matter.

The Commission has granted approval for renewal of appointment on Local Agreement Terms in respect of eight thousand five hundred and seventy-one (8571) Healthcare Workers engaged under the Universal Health Coverage (UHC) program with effect from the date(s) their contracts end.

The purpose of this letter therefore is to:

1. Apprise you of the Public Service Commission's decision.
2. Commitment to renew the UHC contracts on Local Agreement Terms.

Yours



NAKHUMICHA S. WAFULA
CABINET SECRETARY

Copy to: Principal Secretary
State Department for Medical Services

Principal Secretary
State Department for Public Health and Professional Standards



MINISTRY OF HEALTH

STATE DEPARTMENT FOR PUBLIC HEALTH AND PROFESSIONAL STANDARDS

OFFICE OF THE PRINCIPAL SECRETARY

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CATHEDRAL ROAD
P.O Box 30016 -00100
NAIROBI

Ref: No. MOH/HR/6/1/65

Ms Mary Mwiti,
Chief Executive Officer,
Council of Governors,
P. O. Box 40401-00100,
NAIROBI.



5th May, 2023

CONTRACT RENEWAL FOR HEALTHCARE WORKERS UNDER THE UNIVERSAL HEALTH COVERAGE PROGRAM

Reference is made to your letter Ref. No.COG/6/40 Vol.84 (3) dated 27th April, 2023 requesting for a commitment letter from the Ministry of Health to extend the UHC staff employment contract for a further period of three (3) years.

The Ministry is committed to the on-going discussions, notably the summit resolution of 9th February, 2023 in regard to the extension of the employment Contract of Health Care Workers under the UHC. However, as a Ministry we are unable to provide a commitment letter as requested before getting necessary approvals from the Public Service Commission on extensions of this Contract.

Indeed, we did request the Commission vide our letter Ref. No.MOH/ADM/1/1/50/VOL.II dated 1st March, 2023 to extend the Contract of eight thousand five hundred and seventy-one (8571) Healthcare workers under UHC for a further period of three (3) years. Taking cognizant that most of the employees' contracts are expected to end by June 2023 and we have not received a response from the Commission, the Ministry did a reminder letter on the same to the Commission vide letter Ref. No.MOH/ADM/1/1/170/VOL.1/67 dated 24th April, 2023.

The Ministry will endeavor to engage the Commission on the matter and update you accordingly on progress made.

Dr. Josephine Mburu, PhD.
PRINCIPAL SECRETARY



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Our Ref: COG/6/40/3A Vol. 2 (20)

11th April 2023

Ms. Susan Nakhumicha Wafula

Cabinet Secretary
Ministry of Health
Afya House

NAIROBI

Dear CS,

CONTRACT RENEWAL FOR STAFF UNDER THE UNIVERSAL HEALTH COVERAGE (UHC) PROGRAM

The above subject matter refers.

Reference is made to the above subject matter and the task force meeting held on 11th April 2023 and the Summit meeting held on 12th February, 2023 in Naivasha in Nakuru County. The Summit resolved that the Ministry of Health will extend the contracts of UHC staff for a further period of three (3) years under the same terms and conditions. The Contracts for these UHC staff will lapse starting **May 2023** and therefore there's an urgent need to fast-track the commitment letter from the Ministry of Health to the County Governments on the same.

The purpose of this letter, therefore, is to request your office to share with the Council the Commitment letter for contract extension of the UHC staff in order to advise Counties on the next steps towards the renewal of the contracts.

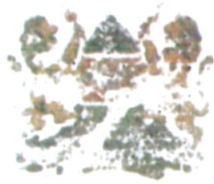
Please accept the assurance of our highest esteem and consideration.

Yours sincerely,

Mary Mwiti
Chief Executive Officer

Copy:

All Excellency Governors



Dr. Josephine N. Mburu

Principal Secretary

Ministry of Health

State Department for Public Health & Professional Standards

Afya House

NAIROBI

All County Executive Committee Members for Health

All County Chief Officers for Health

All County Directors for Health



COUNCIL OF GOVERNORS

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Our Ref: COG/ 6/40 Vol. 3A (39)

19th May, 2022

Dr. Joseph Kinyua, EGH
Head of Public Service
Harambee House
NAIROBI

Dear Dr. Kinyua

EMPLOYMENT OF UNIVERSAL HEALTH COVERAGE WORKERS ON PERMANENT AND PENSIONABLE TERMS OF SERVICE

We acknowledge receipt of your letter **Ref. No. OP/CAB.1/19A**, dated 9th May 2022 on the above referenced subject matter.

The Council acknowledges that County Governments have benefitted immensely from the services rendered by about 9000 health workers of various cadres recruited by the Ministry of Health for three (3) years under the Universal Health Coverage Program.

Further, we are aware that the three years contractual period is ending in June 2023 and that the Principal Secretary for the Ministry of Health has constituted a taskforce to discuss the transition of the staff accordingly. **(Enclosed herein is the letter from the Principal Secretary, MOH, Ref. MOH/ADM/16/35 dated 4th April, 2022 constituting the Taskforce for your information and reference).**

While noting the request in your referenced letter for the Council of Governors to consider absorption of the health workers into preferment and pensionable establishment of county governments where they are deployed, we wish to inform you that the following issues must be given due consideration before such a decision is taken by the County Governments:

1. Adequate budgetary allocation to be availed by the Ministry of Health or National Treasury to provide for the workers' salaries at prevailing market rates including the attendant employment benefits such as medical insurance and pension;

2. Respective County health departments to create vacancies within their structures to enable the transition/ absorption;

In light of the foregoing, we respectfully submit that without the above parameters being satisfied, the Counties will not be able to comply with your request to absorb the healthcare workers and further request that you allow for the taskforce constituted by the Ministry of Health to conclude its work and make its recommendations for consideration.

Please accept the assurance of our highest esteem and consideration.

Yours sincerely



Mary Mwiti
Chief Executive Officer

Copy: 1) All Excellency Governors

- 2) **Ms. Susan Mochache, CBS**
Principal Secretary
Ministry of Health
Afya House
Nairobi
- 3) **Mr. K.W. Kihara, CBS**
Principal Administrative Secretary and
Assistant Secretary to the cabinet
Executive Office of the President
Nairobi



**MINISTRY OF HEALTH
OFFICE OF THE PRINCIPAL SECRETARY**

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P.O. Box 30016-00100
NAIROBI

Ref. No: MOH/ADM/16/1/35

4th April, 2022

The Chairman
Public Service Commission of Kenya
NAIROBI

✓ The Chief Executive Officer
Council of Governors
NAIROBI

The Principal Secretary,
The National Treasury and Planning
NAIROBI

The CEO
Kenya Human Resource Advisory
Council (KHHRAC)
NAIROBI



RE: NOMINATION TO A TASKFORCE TO LOOK INTO THE TRANSITION OF TERMS OF EMPLOYMENT FOR UHC WORKERS UNDER CONTRACT

The Ministry receipt of letter Ref: OP/CAB/1/19A from the Executive Office of the President, Head of Public Service dated 4th March, 2022 requesting the Ministry in conjunction with Public Service Commission (PSC) and Council of Governors (COG) to look into the request of the UHC workers made to H.E the President that their contracts be transitioned to permanent and pensionable and to consider those in hardship counties not receiving hardship and commuter allowances.

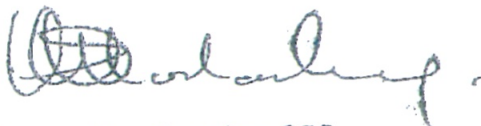
To achieve this, a taskforce has been appointed to look into the Transition of Terms of Employment for UHC Workers under Contract. You are request to nominate a representative to join the taskforce as indicated below:

1. Chairman, CEC Members responsible for Health Caucus;
2. Chairman for County Public Service Boards Caucus;
3. Director of Health at the COG;
4. Public Service Commission Representative;
5. The National Treasury Representative;
6. CEO, KHRAC, MoH

The Terms of Reference:

1. Secure consensus on the translation of Terms of employment of UHC health workers under contract request.
2. Develop an engagement framework that will facilitate the subsequent placement within the County health facilities in a structured manner including confirmation of the requisite budgetary arrangements.
3. Submit the proposal and report to the Principal Secretary, Ministry of Health.

Kindly send the **name** and contacts of your representatives to healthsystemsdept@gmail.com. The contact person for the taskforce is Dr Gondi Joel and can be reached on 0723133882.



Susan Mochache CBS
PRINCIPAL SECRETARY,



EXECUTIVE OFFICE OF THE PRESIDENT
HEAD OF THE PUBLIC SERVICE

Telegraphic Address
Telephone: +254-20-2227436
When replying please quote

STATE HOUSE
P.O. Box 40530-00100
Nairobi, Kenya

OP/CAB.1/19A

9th May 2022

Ref. No.....
and date

....., 20.....

Ms. Mary Mwiti
Chief Executive Officer
Council of Governors
NAIROBI



Dear *Ms Mwiti;*

EMPLOYMENT OF UNIVERSAL HEALTH COVER WORKERS ON PERMANENT AND PENSIONABLE TERMS OF SERVICE

In 2020 the Government deployed 9,919 Health Workers to public hospitals throughout the country under Universal Health Cover programme on a three-year contract. The personnel have appealed to the Government to consider them for employment on permanent and pensionable terms of service.

Deployment of the staff was necessary to ensure access to health services under Universal Health Cover. Consolidation of the benefits realized so far may require retention of the workers at their stations of deployment.

This is therefore to request the Council of Governors to consider absorption of the Health Workers into the permanent and pensionable establishment of county governments where they are deployed.

Yours

*Sincerely,
Joseph K. Kinyua*

JOSEPH K. KINYUA, EGH
HEAD OF THE PUBLIC SERVICE

Copy to: Ms. Susan Mochache, CBS
Principal Secretary
Ministry of Health
NAIROBI

Mr. K. W. Kihara, CBS
Principal Administrative Secretary and
Assistant Secretary to the Cabinet
Executive Office of the President
NAIROBI.



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Our Ref: COG/6/40 Vol. 55 (4)

9th June, 2020

Ms. Susan Mochache, CBS

Principal Secretary

Ministry of Health

NAIROBI

Dear PS,

RECRUITMENT OF HEALTH WORKERS IN THE COUNTY GOVERNMENTS UNDER THE UNIVERSAL HEALTH COVERAGE (UHC) PROGRAM ON THREE (3) YEARS CONTRACT

The above subject matter refers.

In January- March 2020, respective County Governments and the Ministry of Health signed Intergovernmental participation Agreement (IPA) which sets out the terms and understanding between the National government and the County Governments in the implementation of Universal Health Coverage in Kenya. In order to achieve UHC, it was agreed that the health workers to population ratio was to be progressively bridged.

Accordingly, in a meeting held on 27th February, 2020 between the Ministry of Health and the County Executive Committee Members for Health at Silver Springs Hotel Nairobi, it was resolved that an addendum to the signed IPAs would be prepared to incorporate the support towards recruitment of contractual workers in the Counties.

As Counties proceed with finalization of the recruitment process it is important that the Ministry expedite the finalization of the addendum in order to clarify the following issues:

1. The roles of each level of Government in the coordination of the Human Resources for Health under UHC program.
2. The gratuity for the health workers after their contractual period

The purpose of this letter therefore is to bring the aforementioned to your attention and request for urgent action for the same.

Please be assured of our highest esteem and consideration.

Yours sincerely,



Jacqueline Mogeni, MBS
Chief Executive Officer

Copy:

1. All Excellency Governors
All County Executive Members for Health
All County Secretaries
All County Public Service Boards
All Chief Officers for Health

SUBMISSIONS OF THE PUBLIC SERVICE COMMISSION TO SENATE STANDING COMMITTEE ON LABOUR AND SOCIAL WELFARE ON A PETITION REGARDING THE UNFAIR TERMS AND CONDITIONS FOR UNIVERSAL HEALTH COVERAGE (UHC) STAFF AND DELAY IN INTERNSHIP POSTING ON TUESDAY, 20TH JUNE, 2023 AT THE SENATE CHAMBERS

Preliminary remarks

Honorable Chairman,

At the onset we wish to express our gratitude to you and the Honorable members of the Senate Standing Committee on Labour and Social Welfare for the invitation of the Commission to brief the Committee on the petition regarding the unfair terms and conditions for universal health coverage (UHC) staff and delay in internship posting.

Mandate and functions of the Commission

Hon. Chairman,

Before addressing the issues raised in the petition, I wish to outline the mandate and functions of the Commission.

The Public Service Commission is a Constitutional body established under Article 233 of the Constitution. Article 234 of the constitution vests the Commission, with the following mandate:

1. Subject to the Constitution and legislation
 - (i) Establish and abolish offices in the Public Service; and
 - (ii) Appoint persons to hold or act in those offices and to confirm appointments;
2. Exercise disciplinary control over and remove persons holding or acting in those offices;
3. Promote the values and principles referred to in Articles 10 and 232 throughout the public service;
4. Investigate, monitor and evaluate the organization, administration and personnel practices of the public service;
5. Ensure that the public service is efficient and effective;
6. Develop human resources in the public service;
7. Review and make recommendations to the national government in respect of conditions of service, code of conduct and qualifications of officers in the public service;

8. Evaluate and report to the President and parliament on the extent to which the values and principles referred to in Articles 10 and 232 are complied with in the public service;
9. Hear and determine appeals in respect of county governments' public service;
10. Perform any other functions and exercise any other powers conferred by national legislation.

The powers and functions of the Commission have been amplified and operationalized through the Public Service Commission Act, 2017, PSC Regulations including the PSC (County Appeals Procedures) Regulations 2022 which provide the mechanisms for handling county appeals on HR matters.

Petition

Hon. Chairman, the Clerk of the Senate, vide Letter No. SEN/DSEC/SCLSW/2023/82 notified the Commission of the petition filed by Health Sector Unions, Associations and Societies on unfair terms and conditions for Universal Health Coverage (UHC) staff and internship posting. The Commission wishes to isolate and respond to the salient issues in the two segments as tabulated below, cognizant of the fact that the health function is largely a devolved function.

<p>a. (1) Recruitment of Universal Health Coverage (UHC) workers</p>	<p>The Commission in 2020 facilitated the recruitment for UHC health workers through centralized advertisements as follows:</p> <p>(a) Phase I Advertisement of five thousand, five hundred and fifty (5,550) health workers for the Counties under the Universal Health Coverage (UHC) Programme for nine (9) cadres of health personnel on three (3) years contract based on identified needs in the two levels of government.</p> <p>The Remuneration package was a consolidated pay amounting to Ksh.50,000 for Diploma holders and Ksh.40,000.00 for certificate holders.</p> <p>(b) Phase II Advertisement of 4,308 vacancies of Health workers for the Counties under the UHC programme.</p>
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	<p>(c) Applications for the Counties with operational County Public Service Boards were received directly by the Counties for processing and appointment.</p> <p>For the counties without operational Public Service Boards and the then Nairobi Metropolitan Services, the Commission received and processed the applications and made appointments of the 362 successful candidates. The Counties without County Public Service Boards at the time were Kitui, Kirinyaga and Mombasa.</p> <p>(d) Recruitment for phase two health workers for the Ministry of Health (one hundred and ninety-five (195) were for deployment to the National Health facilities. Due to natural attrition the number has since reduced to 8,571</p>
<p>(2) Terms and conditions of employment/service</p>	<p>(i) There are general policies, guidelines, regulations and rules governing appointment, terms, remuneration and other related matters concerning the employment of public officers inclusive of UHC healthcare workers.</p> <p>(ii) Broad categories of appointment:</p> <p>a. Appointment on permanent and pensionable terms (P&P) Applies where vacancies exist in the P&P establishment.</p> <p>b. Appointment on Contract/Local Agreement Terms</p> <p>(i) This applies where the establishment is contractual and positions cannot be filled on P&P terms because vacancies exist in the non-pensionable establishment such as in development projects, programmes and offices which are transitory.</p> <p>(ii) Candidates recruited to fill the vacancies will be appointed on contract/Agreement Terms for a specified period in employment contract.</p>

	<p>(iii) The contracts may have a renewal, extension or non-renewal clause as the case may be.</p> <p>The engagement of UHC staff falls under this category.</p>
<p>(3) Extension/Renewal of Contracts/Absorption</p>	<p>(i) The healthcare workers engaged under the Universal Health Coverage (UHC) programme are deployed at level three and four hospitals across the country. The programme was intended to strengthen the delivery of health services to citizens with opening up of more health facilities.</p> <p>(ii) The contracts are due to lapse in June 2023 and the exit of this critical mass may adversely affect access to medical care. There is need for structured consultations and consensus by MOH, Public Service Commission, Council of Governors and other stakeholders on conversion of terms and absorption.</p> <p>Following a proposal by the Ministry of Health the Commission has extended the contracts of the 8,571 UHC health care workers for a period of One (1) year as an interim measure pending the aforementioned consultations on conversion of terms of service.</p>
<p>b. (1) Internship generally and distinct internship posting under the Ministry of Health</p>	<p>(i) Generally, an intern is a supervised trainee working to gain experience or satisfy requirements for an academic, professional, technical, occupational or trade certification, registration or licensing.</p> <p>(ii) Internship policy</p> <p>The Commission has developed an internship policy to guide Ministries, Departments and agencies in the management of internship programmes.</p> <p>(iii) The Ministry of Health has a statutory obligation to provide internship for the various specialized cadres, posting to health institutions across both levels of government and timely payment of stipend where applicable.</p>

<p>(2) Establishment for Interns - MOH</p>	<p>The Commission in 2021 reviewed and expanded the establishment for interns in the Ministry of Health to (9,500) posts disaggregated as follows:</p> <ul style="list-style-type: none"> (a) Medical Officers Interns (CSG 9/Job Group L) – 2000 posts; (b) Clinical Officers (B. Sc Clinical Medicine) Interns (CSG 10/Job Group K) - 1000 posts; (c) Clinical Officers (Diploma Holders) Interns (CSG 12/Job Group H) -3500 posts; (d) Pharmacist Interns (CSG 9/Job Group L) – 800 posts; (e) Nursing Officer Interns (CSG 10/Job Group K) – 2000 posts; (f) Dental Officer Interns (CSG 9/Job Group L) – 200 posts. <p>The cost implications are within the domain of the Ministry.</p>
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In conclusion Hon Chairman, we hope that the submission has provided useful information on the salient issues raised in the petition and suggestions on the way forward.

We would therefore like to express our thanks and appreciation to the committee for the opportunity to present the Commission's views. We look forward to working with the Committee acknowledging that part of our mandate relates county governments' public service under the appeals mechanism.

AMB. ANTHONY M. MUCHIRI
CHAIRMAN
PUBLIC SERVICE COMMISSION

20TH JUNE, 2023

175/100
2) Please prepare requisite brief
2) Necessary tech officers to accompany
Schedul...
14/6/23
112

REPUBLIC OF KENYA



Telegraphic Address
'Bunge', Nairobi
Telephone 2848000
Fax: 2243694
E-mail: clerk.senate@parliament.go.ke

The Senate
Clerk's Chambers
Parliament Buildings
P. O. Box 41842-00100
NAIROBI, Kenya

PARLIAMENT
OFFICE OF THE CLERK OF THE SENATE

SEN/DSEC/SCLSW/2023/102

Amb. Anthony M. Muchiri,
Chairperson,
Public Service Commission,
P.O. Box 30095-00100,
NAIROBI.

Dear Sir,

**RE: PETITION REGARDING THE UNFAIR TERMS AND CONDITIONS FOR
UNIVERSAL HEALTH COVERAGE (UHC) STAFF AND DELAY IN
INTERNSHIP POSTING**

We refer to your letter, Ref. PSC/ADM/26/1/ (109), dated 17th May, 2023 regarding a meeting with the Standing Committee on Labour and Social Welfare on the above Petition.

At its meeting held on Monday, 22nd May, 2023, the Committee deliberated on the matter and resolved to invite you to a meeting of the Committee.

The purpose of this letter is to invite you to a meeting of the Committee to be held on **Tuesday, 20th June, 2023 at 9.00 am at the Senate Chamber, Main Parliament Buildings, Nairobi**, to clarify various issues raised in the Petition. You may be accompanied to the meeting by any officer(s) who may assist you in making submissions on the Petition.

Ms. Mwanate Shaban, Senior Clerk Assistant (Cell Number- 0726953257; Email: mwanate.shaban@parliament.go.ke), is the Clerk to the Committee and is responsible for all arrangements relating to this matter.

Yours faithfully,

For: *Ef*
J. M. NYEGENYE, CBS,
CLERK OF THE SENATE.

13th June, 2023

14 JUN 2023

PSC-6/2023/4127

Copy to:

Sen. Samson Cherarkey, MP,
Senator, Nandi County,
Main Parliament Buildings,
NAIROBI.

Dr. Simon K. Rotich, CBS,
Chief Executive Officer,
Public Service Commission,
P. O. Box 30095-00100,
NAIROBI.

Mr. Davji Bhimji Atallah,
General Secretary,
Kenya Medical Practitioners and Dentists Union (KMPDU),
nec@kmpdu.org,
NAIROBI.

Mr. George M. Gibore,
General Secretary,
Kenya Union of Clinical Officers (KUCO),
NAIROBI.

Mr. Pius Nyakundi,
General Secretary,
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NAIROBI.

Mr. Elias Mutuma,
General Secretary,
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NAIROBI.

Mr. Michael Ouma,
General Secretary,
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Mr. Peter Ayieko,
General Secretary,
National Union of Biomedical Engineers of Kenya (NUBEK)
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Mr. Samuel Karanja,
Honourable Secretary,
Society of Radiography in Kenya (SORK),
NAIROBI.

Mr. Moses Lore,
Secretary General,
Kenya Health Professional Society (KHPS),
NAIROBI.

Mr. Mohamed Duba,
Secretary General,
Association of Public Health Officers (APHOK),
NAIROBI.

Ref. No. PSC/10/1(2)

17th May, 2023

The Principal Secretary
State Department for Medical Services
Ministry of Health
NAIROBI

RENEWAL OF APPOINTMENT ON LOCAL AGREEMENT TERMS

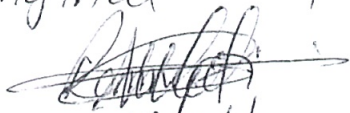
Ref: Yours No. MOH/ADM/1 /1 /50/VOL.II of 1.3.2023

This to inform you that the Public Service Commission has granted approval for renewal of appointment on Local Agreement Terms in respect of Eight Thousand Five Hundred and Seventy-One (8571) Healthcare Workers engaged under the Universal Health Coverage (UHC) Program in your Ministry (State Department for Medical Services), for a further period of One (1) year w.e.f. the date(s) their contracts end to facilitate the finalization of the process of absorbing them into the Service.

Take necessary action.

Dr. Simon K. Rotich, CBS
SECRETARY/CEO
PUBLIC SERVICE COMMISSION

Copy to: The Principal Secretary
State Department for Public Service
Ministry of Public Service, Gender and
Affirmative Action
NAIROBI

*Certified true copy
of original*

19/06/2023

 FOR SECRETARY
PUBLIC SERVICE COMMISSION OF KENYA

ACC (C)

Urgently for assign an officer or
2 to handle this matter.

REPUBLIC OF KENYA



Telegraphic Address
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NAIROBI, Kenya

PARLIAMENT

OFFICE OF THE CLERK OF THE SENATE

SEN/DSEC/SCLSW/2023/82

PLC-17/2023/3379

8th May, 2023

Ms. Nakhumicha S. Wafula,
Cabinet Secretary,
Ministry of Health,
P. O. Box 30016 - 00100,
NAIROBI.



Hon. Johnson Sakaja, CBS,
Governor, Nairobi County & Chairperson, Labour and Social Welfare Committee,
Council of Governors
Delta House, Waiyaki Way,
NAIROBI.

Amb. Anthony M. Muchiri,
Chairperson,
Public Service Commission,
P. O. Box 30095-00100,
NAIROBI.



Dr. Evanson N. Kamuri, EBS
Chief Executive Officer,
Kenyatta National Hospital,
P. O. Box 20723 - 00202,
NAIROBI.

Mrs. Lyn Cherop Mengich,
Chairperson,
Salaries and Remuneration Commission,
P. O. Box 43126 -00100, Nairobi,
NAIROBI.

Dear Sir/Madam,

RE: PETITION REGARDING THE UNFAIR TERMS AND CONDITIONS FOR
UNIVERSAL HEALTH COVERAGE (UHC) STAFF AND DELAY IN

The Senate Standing Committee on Labour and Social Welfare is established under standing order 228(3) of the Senate Standing Orders. The Committee is mandated to consider all matters related to manpower and human resources planning, pension, gender, culture and social welfare, youth, National Youth Service, children's welfare; national heritage, betting, lotteries and sports, public entertainment, public amenities and recreation.

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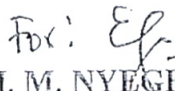
The purpose of this letter is to invite you to a meeting of the Committee to be held on **Thursday, 18th May, 2023** at the **Senate Chamber, Main Parliament Buildings** at **10.00 am** to clarify on the matters raised in the Petition. You may be accompanied to the meeting by any officer(s) who may assist you in making submissions on the Petition.

Attached kindly find a copy of the Petition as was presented in the Senate.

You are requested to send written submissions and any documents to be referred to during the meeting **by email**, on the address clerk.senate@parliament.go.ke and copied to laboursocialwelfarecomm.senate@parliament.go.ke.

Ms. Mwanate Shaban, Senior Clerk Assistant (Cell Number- 0726953257; Email: mwanate.shaban@parliament.go.ke), is the Clerk to the Committee and is responsible for all arrangements relating to this matter.

Yours faithfully,


J. M. NYEGENYE, CBS,
CLERK OF THE SENATE.

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Senator, Nandi County,
Main Parliament Buildings,
NAIROBI.

Dr. Josephine Mburu,
Principal Secretary,
State Department for Health Standards and Professional Management,
Ministry of Health,
NAIROBI.

Dr. Simon K. Rotich, CBS,
Chief Executive Officer,
Public Service Commission,
P. O. Box 30095-00100,
NAIROBI.

Ms. Mary Mwiti,
Chief Executive Officer,
Council of Governors,
Delta House, Waiyaki Way,
NAIROBI.

Mr. Davji Bhimji Atallah,
General Secretary,
Kenya Medical Practitioners and Dentists Union (KMPDU),
nec@kmpdu.org,
NAIROBI.

Mr. George M. Gibore,
General Secretary,
Kenya Union of Clinical Officers (KUCO),
NAIROBI.

Mr. Pius Nyakundi,
General Secretary,
Kenya National Union Medical Laboratory Officers (KNUMLO),
NAIROBI.

Mr. Elias Mutuma,
General Secretary,
Kenya National Union of Pharmaceutical Technologists and Officers (KNUPT),
NAIROBI.

Mr. Michael Ouma,
General Secretary,
Kenya Union of Nutritionists and Dietitians (KUNAD),
NAIROBI.

Mr. Peter Ayieko,
General Secretary,
National Union of Biomedical Engineers of Kenya (NUBEK)
NAIROBI.

Mr. Samuel Karanja,
Honourable Secretary,
Society of Radiography in Kenya (SORK),
NAIROBI.

Mr. Moses Lore,
Secretary General,
Kenya Health Professional Society (KHPS),
NAIROBI.

Mr. Mohamed Duba,
Secretary General,
Association of Public Health Officers (APHOK).



OUR REF: HSU/NA-MOH/01/02 2023 (01)

DATE: 15th March, 2023

The Clerk of the Senate,
Parliament Building,
P.O Box 41842-00100,
Nairobi, Kenya.

Dear Sir/Madam,

RE: PETITION ON UNFAIR TERMS AND CONDITIONS FOR
UNIVERSAL HEALTH COVERAGE (UHC) STAFF AND DELAY IN
INTERNSHIP POSTING.

WE, the duly registered Health Sector Unions, Associations and Societies with a constitutional and legal mandate of championing the Labour interest and professional welfare of all Health Workers employed by both levels of Government, being Citizens of the Republic of Kenya, and Authorized Representatives/Officials. TOGETHER with UHC staff and Interns who have sort our representation.

DRAW the attention of the Senate to the following-

THAT:

- In April 2020, a group of health workers were recruited under one-year Universal Health Coverage internship contract to boost efforts on achievement of Universal Health as well as aid in the fight against COVID₁₉.
- They were given personal numbers but released from service after one year of service leaving a shortage that remains uncovered to date in their previous work stations.
- They are unable to get any other employment in public service since they have personal numbers under the Ministry of Health.

THAT;

- In June 2020, at the height of COVID₁₉ pandemic, the Ministry of Health employed about 9,000 on a three-year UHC contract and deployed them in different County Government(s). Their contracts are coming to an end in May 2023.
- The UHC staff have been diligently providing critical health services across the country since they were engaged.

Petition on unfair terms and conditions for universal health coverage (UHC) staff and delay in Internship posting

- According to the Constitution of Kenya, all human beings are born equal and are equal before the law.
- Section 5 of the Employment Act provides that it's illegal to discriminate in any facet of employment.
- It also provides that an employer shall promote equal opportunities in employment and shall ensure that policies and practices of the organization discourage discrimination.
- The law disallows discrimination in the process of recruitment, training, promotion, terms and conditions of employment, termination of employment and other matters related to employment.

THAT;

- The Public Service Commission, Human Resource Policies and Procedures Manual for the Public Service May, 2016 recognizes the establishment, initiation and management of the Internship programmes in Kenya. The same that states inter-alia;
(3) Internship programmes shall be guided by the relevant provisions of the Constitution, relevant professional bodies and other policy guidelines and shall not exceed one (1) year.

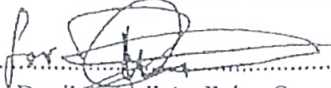
THAT;

- The internship is a legal requirement and a prerequisite for licensure and independent practice. The ministry of health is mandated to ensure that ALL officers are facilitated by posting to internship centers and paying their salary/stipend; whereas some cadres e.g. pharmaceutical technologists, nutritionists and dietitians are not paid the stipend.
- These interns were supposed to be posted in December 2022 but this has not happened to date. Of great concern is the fact that we have seen other interns being posted without any communication on when the remaining interns are to be posted.
- Also, while all other interns are paid using a job group in the health sector, diploma Clinical Officers are only paid a meager allowance that can't cater to their basic needs during the internship.
- Delay in internship posting delays licensure and therefore creates anxiety, denies the graduates opportunity to work and contribute to health service delivery as well as interruption of skills mastery process which impacts on the quality of health services delivered in future.

THAT;

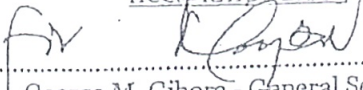
- The African Charter on Human and People's Rights, to which Kenya became a state party on 23rd January 1992 and in particular Article 3(2) which provides that every person is entitled to equal protection of the law.

Signed For and on behalf of Health Sector Unions, Societies and Associations;

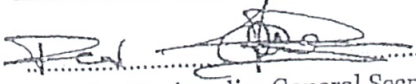

.....
Dr. Davji Bhurji Atallah - General Secretary

Kenya Medical Practitioners and Dentists Union (KMPDU)

nec@kmpdu.org

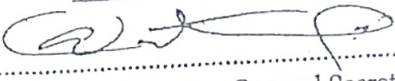

.....
George M. Gibore - General Secretary
Kenya Union of Clinical Officers (KUCO)

kuconeco01@gmail.com / 0798 133 674


.....
Pius Nyakundi - General Secretary

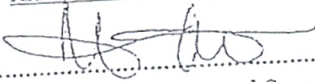
Kenya National Union Medical Laboratory Officers (KNUMLO)

knumlo2022@gmail.com


.....
Elias Mutuma - General Secretary

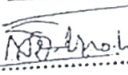
Kenya National Union of Pharmaceutical Technologists and Officers (KNUPT)

knupt.union@gmail.com


.....
Michael Ouma - General Secretary

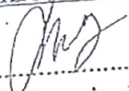
Kenya Union of Nutritionists and Dietitians (KUNAD)

info@kunad.org

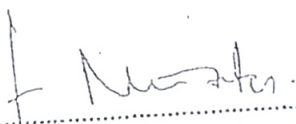

.....
Peter Ayieko - General Secretary

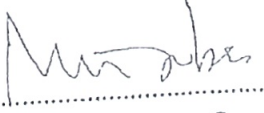
National Union of Biomedical Engineers of Kenya (NUBEK)

info@nubek.or.ke


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Samuel Karanja - Hon. Secretary
Society of Radiography in Kenya (SORK)

info@sork.or.ke


.....
Moses Lore - Secretary General
Kenya health Professional Society (KHPS)


.....
Mohamed Duba - Secretary General
Association of Public Health Officers (APHOK)



Salaries & Remuneration
Commission

Rewarding productivity

Ref. No. SRC/TS/19(68)

7th July, 2023

Mr. J. M Nyegenye, CBS
Clerk of the Senate /Secretary
Parliamentary Service Commission
P.O Box 41842-00100
NAIROBI

Dear *Mr. Nyegenye*

PETITION REGARDING THE UNFAIR TERMS AND CONDITIONS FOR UNIVERSAL HEALTH COVERAGE (UHC) STAFF AND DELAY IN INTERNSHIP POSTING

Reference is made to your letters Ref. SEN/DSEC/SCLSW/2023/82 dated 8th May, 2023 and SEN/DSEC/SCLSW/2023/124 dated 4th July, 2023. Further reference to SRC letter Ref. No. SRC/TS/19(64) dated 19th June, 2023 (**copy attached**) on the above subject.

The Salaries and Remuneration Commission (SRC) is established under Article 230 of the Constitution of Kenya, 2010, to: a) set and regularly review the remuneration and benefits of all State State officers; and b) advise the national and county governments on the remuneration and benefits of all other public officers. In the execution of its mandate, SRC is guided by constitutional principles set out in Article 230(5) of the constitution and Section 12 of SRC Act, 2011.

The purpose of this letter, therefore, is to convey the response to the issues raised in the petition as shown overleaf in the table marked **Appendix**.

The Commission appreciates your continued cooperation and support as we discharge our respective mandates.

Yours


Mrs. Anne R. Gitau, MBS
COMMISSION SECRETARY/CEO

Encl.

Appendix 1: SRC Response to issues raised in the Petition before the Senate Standing Committee on Labour and Social Welfare

Issue	SRC Response
<p>Discrimination and unfair remuneration of Universal health coverage staff.</p> <p>a) That both UHC staff and interns have suffered unfair remuneration as their remuneration has not followed the principal of "equal pay for equal work",</p> <p>b) While all other interns are paid using job group in the health sector, diploma Clinical Officers are only paid a meager allowance that can't cater to their basic needs during internship.</p> <p>c) Renewal, extension and absorption of UHC Interns on Permanent and Pensionable Terms.</p>	<p>(i) SRC has not advised on remuneration and benefits of UHC staff and interns;</p> <p>(ii) The current remuneration and benefits of UHC staff and other interns was recommended by Public Service Commission (as per attached Circular);</p> <p>(iii) The renewal, extension and determination of contracts of engagement for the UHC staff is not under the purview of SRC;</p> <p>(iv) In line with SRC's mandate as set out under article 230 (4) of the Constitution and Section 11 of the SRC Act, SRC will continue to engage and respond to stakeholders on the matter, as appropriate.</p>

Dharm S B



PUBLIC SERVICE COMMISSION

PSC/7/MS/IV (50)

4th December 2020

The Principal Secretary
Ministry of Health
NAIROBI

REMUNERATION PACKAGE OF UNIVERSAL HEALTH COVERAGE WORKERS

Your letter Ref. No. MOH/ADMS/STAFF/60/VOL.II dated 14.10.2020 on the above subject refers.

The Commission has:

- (i) noted that the Ministry is in the process of implementing a remuneration package for Universal Health Coverage (UHC) health workers as agreed upon through consultative meetings between Ministry of Health and County Governments as follows:
 - a) Diploma holders Ksh. 50,000 p.m; and
 - b) Certificate holders Ksh. 40,000 p.m; and
- (ii) Granted authority for creation of a designation code for the Universal Health Coverage health workers in the IPPD to enable their introduction into the payroll.

Take the necessary action.

Simon K. Rotich
Simon K. Rotich, EBS
Secretary/CEO

Copy to: The Principal Secretary
Ministry of Public Service and Gender
NAIROBI





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

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

REPORT TO THE SENATE COMMITTEE ON LABOUR AND SOCIAL WELFARE REGARDING A PETITION ON THE UNFAIR TERMS AND CONDITIONS FOR (UHC) STAFF AND DELAY IN INTERNSHIP POSTING

1. Introduction

Chair and Honorable Members of the Senate Committee on Labour & Social Welfare, thank you for inviting Kenyatta National Hospital to make submissions on the above matter in reference to your letters Ref: SEN/DSEC/SCLSW /2023/82, Ref: SEN/DSEC/SCLSW/2023/103, Ref: SEN/DSEC/ SCLSW /2023/ 126 dated 8th May 2023, 13th June 2023 and 4th July 2023 respectively.

2. Submission to the Senate Committee on Labour & Social Welfare.

Chair and Honorable Members, below are details of the submissions as requested. The hospital in keeping with its mandate of offering the training facilities for medical education, offers opportunities for attachment under the internship program. The interns are either **posted** by the Ministry of health or the relevant professional bodies. The accreditation of internship centres and approved numbers of attachees for different institutions is regulated by the relevant professional bodies in consultation with the institutions. In the FY 2022/23, the hospital had in its space a total of one hundred and thirty (130) interns from different cadres as shown below;

Medical Officers Interns	– 31
Pharmacy Interns	- 25
Dental Officer Interns	- 35
Clinical Officers	- 6
Nutritionist	- 33

The internship lasts for one year and the Hospital does not pay their salaries as the Ministry of Health takes care of their terms of engagement. The Hospital however does offer the outpatient medical care for the interns for the period of internship.

The hospital also takes attaches who require practical experience before they qualify for their trainings. The attachment lasts for a period of three to six (3-6)

months. In the last financial year, the hospital accommodated a total of one thousand three hundred and eighty (1,380) attaches.

Over and above this numbers the hospital offers opportunities for the students trained abroad for prequalifying training in their relevant areas. The hospital also hosts many students who utilize the facility for training of the students especially in the clinical space.

The Hospital Management wishes to notify the committee that it did not engage UHC staff since the process of recruitment was handled by the Ministry of Health. In addition, their remuneration and other terms of engagement are handled directly by MoH.

Chair and Honorable members, thank you for granting us this opportunity to clarify this matter and look forward to your continued support as we discharge on our mandate.

Thank you



Dr. Evanson Kamuri, EBS

CHIEF EXECUTIVE OFFICER, KNH

REPUBLIC OF KENYA

Telegraphic Address
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8th May, 2023

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Dr. Evanson N. Kamuri, EBS
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Kenyatta National Hospital,
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Ms. Mwanate Shaban, Senior Clerk Assistant (Cell Number- 0726953257; Email: mwanate.shaban@parliament.go.ke), is the Clerk to the Committee and is responsible for all arrangements relating to this matter.

Yours faithfully,

For: 
J. M. NYEGENYE, CBS,
CLERK OF THE SENATE.

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Senator, Nandi County,
Main Parliament Buildings,
NAIROBI.

Dr. Josephine Mburu,
Principal Secretary,
State Department for Health Standards and Professional Management,
Ministry of Health,
NAIROBI.

Dr. Simon K. Rotich, CBS,
Chief Executive Officer,
Public Service Commission,
P. O. Box 30095-00100,
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Ms. Mary Mwiti,
Chief Executive Officer,
Council of Governors,
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PARLIAMENT
OFFICE OF THE CLERK OF THE SENATE

SEN/DSEC/SCLSW/2023/126

4th July, 2023

Dr. Evanson N. Kamuri, EBS,
Chief Executive Officer,
Kenyatta National Hospital,
P.O. Box 20723 - 00202,
NAIROBI.

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**RE: PETITION REGARDING THE UNFAIR TERMS AND CONDITIONS FOR
UNIVERSAL HEALTH COVERAGE (UHC) STAFF AND DELAY IN
INTERNSHIP POSTING**

We refer to our letters, Ref. SEN/DSEC/SCLSW/2023/82, dated 8th May, 2023 and Ref. SEN/DSEC/SCLSW/2023/103, dated 13th June, 2023 regarding the above Petition.

At its meeting held on Tuesday, 20th June, 2023, the Committee deliberated on the matter and noted, with concern, that you had not honoured any of its invitations, nor responded to the two letters it had sent on the matter. The Committee resolved to re-invite you to a meeting and to further request for a response on the matter.

The purpose of this letter is therefore to –

1. Request you to submit a comprehensive response to the issues raised in the Petition as indicated in our earlier letter, on or before **Friday, 7th July, 2023**. The response may be sent **by email**, on the address clerk.senate@parliament.go.ke and copied to laboursocialwelfarecomm.senate@parliament.go.ke; and
2. Invite you to appear before the Committee on **Tuesday, 11th July, 2023 at 9.00 am** at the **Senate Chamber, Main Parliament Buildings, Nairobi**. You may be accompanied to the meeting by any person you deem necessary to assist you in responding to the information sought by the Committee.

You are requested to send written submissions and any documents to be referred to during the meeting, on or before Friday, 7th July, 2023, **by email**, on the address clerk.senate@parliament.go.ke and copied to laboursocialwelfarecomm.senate@parliament.go.ke.

Ms. Mwanate Shaban, Senior Clerk Assistant (Cell Number- 0726953257; Email: mwanate.shaban@parliament.go.ke), is the Clerk to the Committee and is responsible for all arrangements relating to this matter.

Yours faithfully,

For: 
J. M. NYEGENYE, CBS,
CLERK OF THE SENATE.

Copy to:

Sen. Samson Cherarkey, MP,
Senator, Nandi County,
Main Parliament Buildings,
NAIROBI.

Mr. Davji Bhimji Atallah,
General Secretary,
Kenya Medical Practitioners and Dentists Union (KMPDU),
nec@kmpdu.org,
NAIROBI.

Mr. George M. Gibore,
General Secretary,
Kenya Union of Clinical Officers (KUCO),
NAIROBI.

Mr. Pius Nyakundi,
General Secretary,
Kenya National Union Medical Laboratory Officers (KNUMLO),
NAIROBI.

Mr. Elias Mutuma,
General Secretary,
Kenya National Union of Pharmaceutical Technologists and Officers (KNUPT),
NAIROBI.

Mr. Michael Ouma,
General Secretary,
Kenya Union of Nutritionists and Dietitians (KUNAD),
NAIROBI.

Mr. Peter Ayieko,
General Secretary,
National Union of Biomedical Engineers of Kenya (NUBEK)
NAIROBI.

Mr. Samuel Karanja,
Honourable Secretary,
Society of Radiography in Kenya (SORK),
NAIROBI.

Mr. Moses Lore,
Secretary General,
Kenya Health Professional Society (KHPS),
NAIROBI.

Mr. Mohamed Duba,
Secretary General,
Association of Public Health Officers (APHOK),
NAIROBI.



OUR REF: HSU/NA-MOH/01/02 2023 (01)

DATE: 15th March, 2023

The Clerk of the Senate,
Parliament Building,
P.O Box 41842-00100,
Nairobi, Kenya.

Dear Sir/Madam,

**RE: PETITION ON UNFAIR TERMS AND CONDITIONS FOR
UNIVERSAL HEALTH COVERAGE (UHC) STAFF AND DELAY IN
INTERNSHIP POSTING.**

WE, the duly registered Health Sector Unions, Associations and Societies with a constitutional and legal mandate of championing the Labour interest and professional welfare of all Health Workers employed by both levels of Government, being Citizens of the Republic of Kenya, and Authorized Representatives/Officials. **TOGETHER** with UHC staff and Interns who have sort our representation.

DRAW the attention of the Senate to the following-

THAT:

- In April 2020, a group of health workers were recruited under one-year Universal Health Coverage internship contract to boost efforts on achievement of Universal Health as well as aid in the fight against COVID19.
- They were given personal numbers but released from service after one year of service leaving a shortage that remains uncovered to date in their previous work stations.
- They are unable to get any other employment in public service since they have personal numbers under the Ministry of Health.

THAT;

- In June 2020, at the height of COVID19 pandemic, the Ministry of Health employed about 9,000 on a three-year UHC contract and deployed them in different County Government(s). Their contracts are coming to an end in May 2023.
- The UHC staff have been diligently providing critical health services across the country since they were engaged.

- These contracts attracted a consolidated salary that have seen them earn half of what their peers earn working in the same environment.
- In February 2023, the Intergovernmental Summit sitting in Naivasha resolved that the Ministry of Health to extend the contracts of UHC staff for a further period of three year-term under the same terms and conditions.
- These staff are disturbed and demotivated by these development as they had valid expectations that they would have been absorbed on permanent and pensionable terms or their remuneration improved to be equal with their peers whom they work together under same conditions but earning differently.

THAT;

- Article 259 of the Constitution of Kenya provides that the Constitution must be interpreted in a manner that promotes its purposes, values and principles; advances the rule of law and human rights and fundamental freedoms in the Bill of Rights. Permits the development of the law and contributes to good governance.

THAT;

- Article 41 of the Constitution of Kenya, 2010, we are entitled to constitutional privileges of Fair Labour Practices; this being a Human Right. The article reads in part: 41. Labour relations (1) every person has the right to fair Labour practices. (2) Every worker has the right— (a) to fair remuneration; ...
- Internship contract is recognized under employment act as a contract of service under apprenticeship of indentured learnership and therefore entitled to enjoy the protection of article 41 of the constitution.
- Both UHC staff and interns submit that they have suffered unfair remuneration as their remuneration has not followed the principle of "equal pay for equal work".
- This act is not only unfair but discriminatory in nature and goes against the doctrine of fair labour practice ordained in Article 41 of the Constitution of Kenya, 2010 as well as the Employment Act No.11 (2007) Laws of Kenya on fair labour practice and discrimination.

THAT;

- Both Article 27 of the Constitution and Section 5 of the Act prohibit discrimination on the basis of race, colour, sex, language, religion, political or other opinion, nationality, ethnic or social origin, disability, pregnancy, marital status or HIV status.
- Section 5 (7) of the Act provides that when discrimination has been alleged by an employee, the burden of proof shifts to the employer who must show that it did not take place.

- According to the Constitution of Kenya, all human beings are born equal and are equal before the law.
- Section 5 of the Employment Act provides that it's illegal to discriminate in any facet of employment.
- It also provides that an employer shall promote equal opportunities in employment and shall ensure that policies and practices of the organization discourage discrimination.
- The law disallows discrimination in the process of recruitment, training, promotion, terms and conditions of employment, termination of employment and other matters related to employment.

THAT;

- The Public Service Commission, Human Resource Policies and Procedures Manual for the Public Service May, 2016 recognizes the establishment, initiation and management of the Internship programmes in Kenya. The same that states inter-alia;

(3) Internship programmes shall be guided by the relevant provisions of the Constitution, relevant professional bodies and other policy guidelines and shall not exceed one (1) year.

THAT;

- The internship is a legal requirement and a prerequisite for licensure and independent practice. The ministry of health is mandated to ensure that ALL officers are facilitated by posting to internship centers and paying their salary/stipend; whereas some cadres e.g. pharmaceutical technologists, nutritionists and dietitians are not paid the stipend.
- These interns were supposed to be posted in December 2022 but this has not happened to date. Of great concern is the fact that we have seen other interns being posted without any communication on when the remaining interns are to be posted.
- Also, while all other interns are paid using a job group in the health sector, diploma Clinical Officers are only paid a meager allowance that can't cater to their basic needs during the internship.
- Delay in internship posting delays licensure and therefore creates anxiety, denies the graduates opportunity to work and contribute to health service delivery as well as interruption of skills mastery process which impacts on the quality of health services delivered in future.

THAT;

- The African Charter on Human and People's Rights, to which Kenya became a state party on 23rd January 1992 and in particular Article 3(2) which provides that every person is entitled to equal protection of the law.

Petition on unfair terms and conditions for universal health coverage (UHC) staff and delay in internship posting

- Article 5 which provides that every individual shall have the right to the respect of the dignity inherent in a human being;
- Article 9 which provides that every individual shall have the right to receive information and to express disseminate his opinions within the law.

THAT;

- The Senate has powers to find a solution to this discrimination and unfair labour practices and remuneration.

THAT;

- We have made every effort to have the matter addressed by the relevant bodies but the responses has been no response and in other cases it has been unsatisfactory; and

THAT;

- None of the issues raised in this Petition are pending before in any court of law, constitutional or any other legal body.

WHEREFORE, your humble petitioners pray **THAT;**

The Senate-

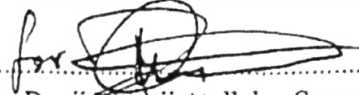
- 1. Investigates the issues raised and intervenes on the matter of discrimination and unfair remuneration of these health workers;**
- 2. Makes recommendations on such programmes including adequacy of resources, better terms of engagement etc; and**
- 3. Recommends appropriate measures for such programmes including internship and posting of health workers.**

Dated & signed at **NAIROBI** this.....15th ...day of.....**MARCH**2023.

Counter signed by Senator for Nandi County.

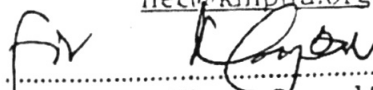
SEN. SAMSON CHERARKEY, MP,
SENATOR FOR NANDI COUNTY.

Signed For and on behalf of Health Sector Unions, Societies and Associations;

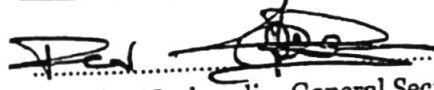

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Dr. Davji Bhuraji Atallah - General Secretary
Kenya Medical Practitioners and Dentists Union (KMPDU)

nec@kmpdu.org

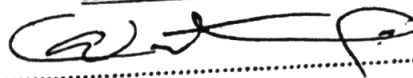

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George M. Gibore - General Secretary
Kenya Union of Clinical Officers (KUCO)
kuconec001@gmail.com / 0798 133 674


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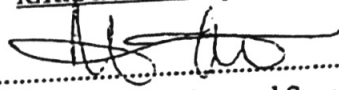
Pius Nyakundi - General Secretary
Kenya National Union Medical Laboratory Officers (KNUMLO)

knumlo2022@gmail.com


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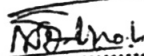
Elias Mutuma - General Secretary
Kenya National Union of Pharmaceutical Technologists and Officers (KNUPT)

knupt.union@gmail.com


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Michael Ouma - General Secretary
Kenya Union of Nutritionists and Dietitians (KUNAD)

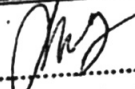
info@kunad.org


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Peter Ayieko - General Secretary

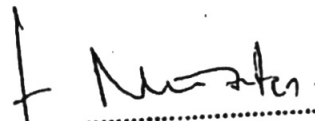
National Union of Biomedical Engineers of Kenya (NUBEK)

info@nubek.or.ke

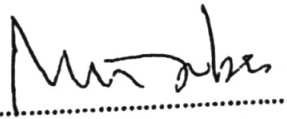

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Samuel Karanja - Hon. Secretary
Society of Radiography in Kenya (SORK)

info@sork.or.ke


.....

Moses Lore - Secretary General
Kenya Health Professional Society (KHPS)


.....

Mohamed Duba - Secretary General
Association of Public Health Officers (APHOK)

info@aphok.or.ke



KENYA UNION OF CLINICAL OFFICERS

Upperhill Gardens, 3rd Ngong Avenue
Office Suite No. E-01
P.O Box 10387-00100, Nairobi
Email: kuconec001@gmail.com / info@kuco.or.ke

General Secretary - 0726-438381
National Chairman - 0710 206244
Office Line - 0798 133 674
Website: - www.kuco.or.ke

Our Ref: KUCO/SEN/05/03 2023 (47)

Date: 18th May, 2023

The Speaker of the Senate Assembly,
Parliament Building,
P.O Box 41842-00100,
Nairobi, Kenya.

Through:

The Clerk of the Senate Assembly,
Parliament Building,
P.O Box 41842-00100,
Nairobi, Kenya.

Dear Sir/Madam,

RE: PETITION ON UNFAIR TERMS AND CONDITIONS FOR UNIVERSAL HEALTH COVERAGE (UHC) STAFF AND DELAY IN INTERNSHIP POSTING.

OUR HUMBLE SUBMISSIONS TO THE PETITION;

"Pursuant to Your letter Ref No. SEN/DSEC/SCLSW/2023/82 dated 8th May, 2023"

WE, The Kenya Union of Clinical Officers is a duly registered trade union under the Labour Relations Act No. 14 of 2007 Laws of Kenya with a constitutional and legal mandate of championing the Labour interest of all Clinical Officers employed by both levels of Government, TOGETHER with the undersigned, being Citizens of the Republic of Kenya, and Authorized Representatives / officials of the Union

PETITIONED, this Honourable House of the National Assembly jointly and severally with other duly registered Health Sector Unions, Associations and Societies for and on behalf of the UHC Staff and Officers due for Internship via a joint petition dated 27th February, 2023.

WITH THE ISSUES BEING:

1. Discriminative & Unfair Terms of Serve to the UHC Staff.
2. Delayed Posting of Interns and Discriminative Terms for the Diploma Clinical officers

BACKGROUNDS OF ISSUES AS SET IN THE PETITION ARE THAT:

1. Discriminative & Unfair Terms of Serve to the UHC Staff.

- In April 2020, a group of health workers were recruited by the Public Service Commission on behalf of the National Government under one-year Universal Health Coverage internship

Petition On Unfair Terms And Conditions For Universal Health Coverage (Uhc) Staff And Delay In Internship Posting.

contract to boost efforts on achievement of Universal Health as well aid in the fight against COVID19.

- In June 2020, at the height of COVID19 pandemic, the Ministry of Health employed about 9,000 on a three-year UHC contract and deployed them in different County Government(s). Their contracts are coming to an end in May 2023.
- The UHC staff have been diligently providing critical health services across the Country since they were engaged despite working under demeaning and unreliable terms and conditions of service in comparison with their counterparts who are in the Permanent and Pensionable establishment.
- **The UHC Interns have be greatly disadvantaged in terms of nonpayment of Gratuities contrary to the Practice ordained in the Employment Act No.11(2007) Laws of Kenya as read together with norms and standards as set in the PSC,HRM, 2016.**
- In February 2023, the Intergovernmental Summit sitting in Naivasha communicated through a press release a resolution that the Ministry of Health to extend the contracts of UHC staff for a further period of three year-term under the same terms and conditions.
- These staff are disturbed and demotivated by these development as they had valid expectations that they would have been absorbed on permanent and pensionable terms or their remuneration improved to be equal with their peers whom they work together under same conditions but earning differently.
- These contracts attracted a consolidated salary of Ksh. 50,000 for Diploma Holders and Ksh. 100,000 for the Degree Holders accumulating to **Ksh. 4.8Billion annually**. This have seen them earn less than half of what their peers earn working in the same environment.
- We humbly submit that the Government will require a budgetary allocation of to a total of **Ksh. 10.3 Billion Annually** to have the UHC Staff absorbed into PnP establishments.

The basis and Justification of this issue:

1. Article 259 of the Constitution of Kenya provides that the Constitution must be interpreted in a manner that promotes its purposes, values and principles; advances the rule of law and human rights and fundamental freedoms in the Bill of Rights. Permits the development of the law and contributes to good governance **thus:**

(1) This Constitution shall be interpreted in a manner that–

(a) promotes its purposes, values and principles;

(b) advances the rule of law, and the human rights and fundamental freedoms in the Bill of Rights;

(c) permits the development of the law; and

(d) contributes to good governance.

2. Article 41 of the Constitution of Kenya, 2010, we are entitled to constitutional privileges of Fair Labour Practices; this being a Human Right. The article reads in part:

Labour relations (1) every person has the right to fair Labour practices.

(2) Every worker has the right– (a) to fair remuneration;

3. Section 5(7) of the Act provides that when discrimination has been alleged by an employee, the burden of proof shifts to the employer who must show that it did not take place thus:

Discrimination in employment

(1) It shall be the duty of the Minister, labour officers and the Industrial Court–

(a) to promote equality of opportunity in employment in order to eliminate discrimination in employment; and

(b) to promote and guarantee equality of opportunity for a person who, is a migrant worker or a member of the family of the migrant worker, lawfully within Kenya.

(2) An employer shall promote equal opportunity in employment and strive to eliminate discrimination in any employment policy or practice.

(3) No employer shall discriminate directly or indirectly, against an employee or prospective employee or harass an employee or prospective employee–

(a) on grounds of race, colour, sex, language, religion, political or other opinion, nationality, ethnic or social origin, disability, pregnancy, marital status or HIV status;

(b) in respect of recruitment, training, promotion, terms and conditions of employment, termination of employment or other matters arising out of the employment.

4. According to the Constitution of Kenya, all human beings are born equal and are equal before the law.

5. Section 5(5) of the Employment Act provides that it's illegal to discriminate in any facet of employment in terms of remunerations. The Act Provides that:

(5) An employer shall pay his employees equal remuneration for work of equal value.

(6) An employer who contravenes the provision of the section commits an offence.

6. That the adverts by the PSC for the UHC Positions as developed did not factor in the existence of requirement for appointments as per the respective Scheme of Service approved by the same PSC.

7. The PSC has contravened Sec. 45 of the PSC Act No. 10 of 2007 in terms of contractual engagement, renewal and

45. Service on contractual terms

(1) A person may be engaged on a term of contract, for a period of at least twelve months but not exceeding five years.

(2) A person may be engaged on a term of contract if the following requirements are met–

(a) the office where such a person is to be deployed has been created by the Commission;

(b) the office where such a person is to be deployed exists in the contractual establishment;

(c) the person has expressed the desire to serve on a term of contract;

(d) there is no other public officer performing the function; and

- (e) the person does not qualify to be employed under any other terms of service
- (3) The extension of a term of contract may be allowed by the Commission or other appointing authority if–
 - (a) the workload justifies further engagement;
 - (b) the performance of the public officer is satisfactory;
 - (c) the public officer has expressed, in writing, the willingness to engage for a further term of service;
 - (d) the decision shall in no way disadvantage any public officer employed on permanent terms; and
 - (e) the decision is made at least three months before the expiry of the affected public officer's term of contract.
- (4) The Commission shall regulate the employment of persons on a term of contract as contemplated under this section

8. It also provides that an employer shall promote equal opportunities in employment and shall ensure that policies and practices of the organization discourage discrimination.
9. The law disallows discrimination in the process of recruitment, training, promotion, terms and conditions of employment, termination of employment and other matters related to employment.
10. The African Charter on Human and People's Rights, to which Kenya became a state party on 23rd January 1992 and in particular Article 3(2) which provides that every person is entitled to equal protection of the law.

2. Posting of Interns and Discriminative Terms for the Diploma Clinical officers

The internship is a legal requirement and a prerequisite for licensure and independent practice. In the clinical officers (Training, Registration and Licensing) (Administration, Training, Registration and Licensing) Regulations, 2016 thus interprets internship as follows:

"Internship" means one year compulsory training undertaken by a person seeking to qualify for registration as a clinical officer;

These interns were supposed to be posted in December 2022 but this has not happened to date. Of great concern is the fact that we have seen other interns being posted without any communication on when the remaining interns are to be posted.

Pursuant to the PSC Circular of Ref No. PSC/ EMCS/7.1/ (15) dated 17th November, 2021, the PCS reviewed establishments for internship within the Ministry of Health and subsequently approved new establishments that provided for payments in various categories as per the defined job groups which has been implemented in respect of other cadres EXCEPT for implementation in respect of the Clinical Officers who were to be paid as per Job Group "CSG 12".

Also, while all other interns are paid using a job group in the health sector, diploma Clinical Officers are only paid a meagre allowance that can't cater to their basic needs during the internship.

Delay in internship posting delays licensure and therefore creates anxiety, denies the graduates opportunity to work and contribute to health service delivery as well as interruption of skills mastery process which impacts on the quality of health services delivered in future.

Currently the Clinical Officers interns are in two categories namely:

- i. BSc Clinical Medicine
- ii. Diploma Clinical Medicine

The cost for implication for the current internship stipend is as spread in the table below:

Category	No. of interns required	Amount for implementation
Diploma	1605	1605*15,000 = Ksh.288,900,000 PA
BSc	243	243*98000 = Ksh. 285,768,000PA
Total	1848	Ksh. 574,668,000

The ministry of health is mandated to ensure that all eligible officers are facilitated by posting to internship centers and paying their salary/stipend.

AND JUSTIFIED BY LAW TO INCLUDE:

3. Article 259 of the Constitution of Kenya provides that the Constitution must be interpreted in a manner that promotes its purposes, values and principles; advances the rule of law and human rights and fundamental freedoms in the Bill of Rights. Permits the development of the law and contributes to good governance **thus:**

(1) This Constitution shall be interpreted in a manner that–

(a) promotes its purposes, values and principles;

(b) advances the rule of law, and the human rights and fundamental freedoms in the Bill of Rights;

(c) Permits the development of the law; and

(d) Contributes to good governance.

4. Article 41 of the Constitution of Kenya, 2010, we are entitled to constitutional privileges of Fair Labour Practices; this being a Human Right. The article reads in part:

Labour relations (1) every person has the right to fair Labour practices.

(2) Every worker has the right– (a) to fair remuneration;

5. This act is not only unfair but discriminatory in nature and goes against the doctrine of fair labour practice ordained in Article 41 of the Constitution of Kenya, 2010 as well as the Employment Act No.11 (2007) Laws of Kenya on fair labour practice and discrimination.

6. Both Article 27 of the Constitution and Section 5 of the Act prohibit discrimination on the basis of race, colour, sex, language, religion, political or other opinion, nationality, ethnic or social origin, disability, pregnancy, marital status or HIV status.

7. Section 5(7) of the Act provides that when discrimination has been alleged by an employee, the burden of proof shifts to the employer who must show that it did not take place thus:

Discrimination in employment

(1) It shall be the duty of the Minister, labour officers and the Industrial Court–

(a) to promote equality of opportunity in employment in order to eliminate

discrimination in employment; and

(b) to promote and guarantee equality of opportunity for a person who, is a migrant worker or a member of the family of the migrant worker, lawfully within Kenya.

(2) An employer shall promote equal opportunity in employment and strive to eliminate discrimination in any employment policy or practice.

(3) No employer shall discriminate directly or indirectly, against an employee or prospective employee or harass an employee or prospective employee—

(a) on grounds of race, colour, sex, language, religion, political or other opinion, nationality, ethnic or social origin, disability, pregnancy, marital status or HIV status;

(b) in respect of recruitment, training, promotion, terms and conditions of employment, termination of employment or other matters arising out of the employment.

8. According to the Constitution of Kenya, all human beings are born equal and are equal before the law.

9. It also provides that an employer shall promote equal opportunities in employment and shall ensure that policies and practices of the organization discourage discrimination. Section 5(2) of the Employment Act provides that it's illegal to discriminate in any facet of employment **thus**:

(2) An employer shall promote equal opportunity in employment and strive to eliminate discrimination in any employment policy or practice.

10. The law disallows discrimination in the process of recruitment, training, promotion, terms and conditions of employment, termination of employment and other matters related to employment.

11. The Public Service Commission, Human Resource Policies and Procedures Manual for the Public Service May, 2016 recognizes the establishment, initiation and management of the Internship programs in Kenya. The same that states inter-alia;

(3) Internship programmes shall be guided by the relevant provisions of the Constitution, relevant professional bodies and other policy guidelines and shall not exceed one (1) year.

12. Internship contract is recognized under employment act as a contract of service under apprenticeship of indentured learnership and therefore entitled to enjoy the protection of article 41 of the constitution. Sec. 1 of the Employment Act (interpretation) thus defines an employee as..

"Employee" means a person employed for wages or a salary and includes an apprentice and indentured learner

13. The African Charter on Human and People's Rights, to which Kenya became a state party on 23rd January 1992 and in particular Article 3(2) which provides that every person is entitled to equal protection of the law.

14. Our efforts to resolve these matters with Ministry of health have not yielded since our letters and request for audience to discuss have not been responded to.

JURISDICTION OF THIS HOUSE:

The National Assembly has powers to find a solution to these discrimination and unfair labour practices and remuneration **PURSUANT** to its relevant standing orders.

WHEREFORE, our humble submission in support of the petition and prayers therein as follows:

1. The Ministry of Health to immediately posts all Clinical Officers due for internship and harmonize their payments to conform to the PSC Circular cited above.
2. For an immediate conversion of the contracts to permanent and pensionable establishments to the UHC Staffs to abide the relevant provisions of the Law.
3. That the staff who served under Covid 19 Emergency Health Response Programme be considered as a priority in appointments.

Dated & signed at **NAIROBI** this.....18thday of...May.....2023.

Signed For and on behalf of Kenya Union of Clinical Officers



.....
George M. Gibore - General Secretary
Kenya Union of Clinical Officers (KUCO)
kuconec001@gmail.com / 0798 133 674



NAOT KENYA
THE NATIONAL ASSOCIATION OF ORTHOPAEDIC TECHNOLOGISTS IN KENYA.

Ref NO:SG.NAOTK/04/2020

24th April 2023

The standing Committee on Labour and Social Welfare

The Senate

Republic of Kenya

OUR WRITTEN SUBMISSION ON THE PETITION ON UNFAIR TERMS AND CONDITIONS FOR OUR STAFF IN UHC.

Following a petition that was submitted to the senate regarding the above subject which was signed by our umbrella organization, we the National Association of Orthopaedic Technologists of Kenya wish to raise a specific concern that Orthopaedic Technology, a very important cadre in Rehabilitative Services is poorly represented in counties.

We were allocated only 90 internship positions for UHC which were shared across the country, and they immediately got dismissed when the contracts ended.

This cadre has been discriminated so much to the extent that it is nonexistent in all hospitals the following counties.

1. Kajiado County
2. Samburu County
3. Elgeyo/Marakwet County
4. Baringo County
5. Migori County
6. Lamu County
7. Wajir County
8. Marsabit County
9. Vihiga county
10. Narok County
11. Uasin Gishu

12. Tana River

13.

Orthopaedic Technologists play a vital primary role in the medical team in promotion of healthcare, disability prevention, fabrication and fitting of various Orthopaedic devices (Prosthetics and Orthotics), walking and mobility aids (wheelchairs) aimed at rehabilitating persons with disabilities and afflicted by various Orthopaedic and musculoskeletal conditions.

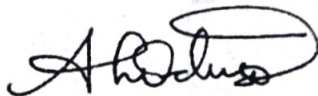
According to WHO standards and norms and policies in the Ministry of Health, and also in line with the Universal Health Coverage, County Referral Hospitals and Sub-County Hospitals should have an orthopaedic technology unit with adequate personnel to play their role in reducing the impact of a broad range of diseases and injuries.

Considering the fact that we currently have enough unemployed qualified Orthopaedic Technologists in Kenya, we humbly seek for your intervention in compelling all Counties in Kenya urgently conduct a recruitment to promote access to this essential service to ensure patients and persons with disabilities related conditions benefit as enshrined in the constitution and in the spirit of the Universal Health Coverage and devolution.

This will also strengthen and extend rehabilitation and provision of assistive devices at the primary level to enable persons with disabilities who form a large part of our clientele to access services for fulfilment of their aspirations in all aspects of life. Such assistive devices and services provided by Orthopaedic Technologists complement diminished or absence of certain physical functions to enhance persons with disability to participate in their day to day activities.

Profound regards.

Yours,



Emmanuel Mayakah Onduso

Hon. National Secretary General

Cell: 0725416795



KENYA UNION OF CLINICAL OFFICERS

Upperhill Gardens, 3rd Ngong Avenue
Office Suite No. E-01
P.O Box 10387-00100, Nairobi
Email: kuconec001@gmail.com / info@kuco.or.ke

General Secretary - 0726-438381
National Chairman - 0710 206244
Office Line - 0798 133 674
Website: - www.kuco.or.ke

Our Ref: KUCCO/NA/04/02 2023 (44)

Date: 24th April, 2023

The Speaker of the National Assembly,
Parliament Building,
P.O Box 41842-00100,
Nairobi, Kenya.

Through:

The Clerk of the National Assembly,
Parliament Building,
P.O Box 41842-00100,
Nairobi, Kenya.

Dear Sir/Madam,

RE: PETITION ON UNFAIR TERMS AND CONDITIONS FOR UNIVERSAL HEALTH COVERAGE (UHC) STAFF AND DELAY IN INTERNSHIP POSTING.

OUR HUMBLE SUBMISSIONS TO THE PETITION;

“Pursuant to Your letter Ref No. SEN/DSEC/SCLSW/2023/62 dated 14th April, 2023”

The Kenya Union of Clinical Officers being is a duly registered trade union under the Labour Relations Act No. 14 of 2007 Laws of Kenya with a constitutional and legal mandate of championing the Labour interest of all Clinical Officers employed by both levels of Government;

PETITIONED, this Honourable House of the National Assembly jointly and severally with other duly registered Health Sector Unions, Associations and Societies for and on behalf of the UHC Staff and Officers due for Internship via a joint petition dated 27th February, 2023.

WITH THE ISSUES BEING:

1. Discriminative & Unfair Terms of Serve to the UHC Staff.
2. Delayed Posting of Interns and Discriminative Terms for the Diploma Clinical officers

BACKGROUND OF ISSUES AS SET IN THE PETITION ARE THAT:

1. Discriminative & Unfair Terms of Serve to the UHC Staff.

- In April 2020, a group of health workers were recruited by the Public Service Commission on behalf of the National Government under one-year Universal Health Coverage internship contract to boost efforts on achievement of Universal Health as well aid in the fight against COVID19.
- In June 2020, at the height of COVID19 pandemic, the Ministry of Health employed about 9,000 on a three-year UHC contract and deployed them in different County Government(s). Their contracts are coming to an end in May 2023.
- The UHC staff have been diligently providing critical health services across the Country since they were engaged despite working under demeaning and unreliable terms and conditions of service in comparison with their counterparts who are in the Permanent and Pensionable establishment.
- In February 2023, the Intergovernmental Summit sitting in Naivasha communicated through a press release a resolution that the Ministry of Health to extend the contracts of UHC staff for a further period of three year-term under the same terms and conditions.
- These staff are disturbed and demotivated by these development as they had valid expectations that they would have been absorbed on permanent and pensionable terms or their remuneration improved to be equal with their peers whom they work together under same conditions but earning differently.
- **The UHC Interns have be greatly disadvantaged in terms of nonpayment of Gratuities contrary to the Practice ordained in the Employment Act No.11(2007) Laws of Kenya as read together with norms and standards as set in the PSC,HRM, 2016.**
- These contracts attracted a consolidated salary of Ksh. 50,000 for Diploma Holders and Ksh.100,000 for the Degree Holders accumulating to **Ksh. 4.8Billion annually**. This have seen them earn less than half of what their peers earn working in the same environment.
- We humbly submit that the Government will require a budgetary allocation of to a total of **Ksh. 10.3 Billion Annually** to have the UHC Staff absorbed into PnP establishments.

The basis and Justification of this issue:

1. Article 259 of the Constitution of Kenya provides that the Constitution must be interpreted in a manner that promotes its purposes, values and principles; advances the rule of law and human rights and fundamental freedoms in the Bill of Rights. Permits the development of the law and contributes to good governance **thus:**

(1) This Constitution shall be interpreted in a manner that-

(a) promotes its purposes, values and principles;

(b) advances the rule of law, and the human rights and fundamental freedoms in the Bill of Rights;

(c) permits the development of the law; and

(d) contributes to good governance.

2. Article 41 of the Constitution of Kenya, 2010, we are entitled to constitutional privileges of Fair Labour Practices; this being a Human Right. The article reads in part:

Labour relations (1) every person has the right to fair Labour practices.

(2) Every worker has the right- (a) to fair remuneration;

3. Section 5(7) of the Act provides that when discrimination has been alleged by an employee, the burden of proof shifts to the employer who must show that it did not take place thus:

Discrimination in employment

(1) It shall be the duty of the Minister, labour officers and the Industrial Court-

(a) to promote equality of opportunity in employment in order to eliminate discrimination in employment; and

(b) to promote and guarantee equality of opportunity for a person who, is a migrant worker or a member of the family of the migrant worker, lawfully within Kenya.

(2) An employer shall promote equal opportunity in employment and strive to eliminate discrimination in any employment policy or practice.

(3) No employer shall discriminate directly or indirectly, against an employee or prospective employee or harass an employee or prospective employee-

(a) on grounds of race, colour, sex, language, religion, political or other opinion, nationality, ethnic or social origin, disability, pregnancy, marital status or HIV status;

(b) in respect of recruitment, training, promotion, terms and conditions of employment, termination of employment or other matters arising out of the employment.

4. According to the Constitution of Kenya, all human beings are born equal and are equal before the law.

5. Section 5(5) of the Employment Act provides that it's illegal to discriminate in any facet of employment in terms of remunerations. The Act Provides that:

(5) An employer shall pay his employees equal remuneration for work of equal value.

(6) An employer who contravenes the provision of the section commits an offence.

6. That the adverts by the PSC for the UHC Positions as developed did not factor in the existence of requirement for appointments as per the respective Scheme of Service approved by the same PSC.

7. The PSC has contravened Sec. 45 of the PSC Act No. 10 of 2007 in terms of contractual engagement, renewal and

45. Service on contractual terms

(1) A person may be engaged on a term of contract, for a period of at least twelve months but not exceeding five years.

(2) A person may be engaged on a term of contract if the following requirements are met-

(a) the office where such a person is to be deployed has been created by the Commission;

(b) the office where such a person is to be deployed exists in the contractual establishment;

(c) the person has expressed the desire to serve on a term of contract;

(d) there is no other public officer performing the function; and

(e) the person does not qualify to be employed under any other terms of service

(3) The extension of a term of contract may be allowed by the Commission or other appointing authority if-

(a) the workload justifies further engagement;

(b) the performance of the public officer is satisfactory;

(c) the public officer has expressed, in writing, the willingness to engage for a further term of service;

(d) the decision shall in no way disadvantage any public officer employed on permanent terms; and

(e) the decision is made at least three months before the expiry of the affected public officer's term of contract.

(4) The Commission shall regulate the employment of persons on a term of contract as contemplated under this section

8. It also provides that an employer shall promote equal opportunities in employment and shall ensure that policies and practices of the organization discourage discrimination.
9. The law disallows discrimination in the process of recruitment, training, promotion, terms and conditions of employment, termination of employment and other matters related to employment.
10. The African Charter on Human and People's Rights, to which Kenya became a state party on 23rd January 1992 and in particular Article 3(2) which provides that every person is entitled to equal protection of the law.

2. Posting of Interns and Discriminative Terms for the Diploma Clinical officers

The internship is a legal requirement and a prerequisite for licensure and independent practice. In the clinical officers (Training, Registration and Licensing) (Administration, Training, Registration and Licensing) Regulations, 2016 thus interprets internship as follows:

"Internship" means one year compulsory training undertaken by a person seeking to qualify for registration as a clinical officer;

These interns were supposed to be posted in December 2022 but this has not happened to date. Of great concern is the fact that we have seen other interns being posted without any communication on when the remaining interns are to be posted.

Pursuant to the PSC Circular of Ref No. PSC/ EMCS/7.1/ (15) dated 17th November, 2021, the PCS reviewed establishments for internship within the Ministry of Health and subsequently approved new establishments that provided for payments in various categories as per the defined job groups which has been implemented in respect of other cadres EXCEPT for implementation in respect of the Clinical Officers who were to be paid as per Job Group "CSG 12".

Also, while all other interns are paid using a job group in the health sector, diploma Clinical Officers are only paid a meagre allowance that can't cater to their basic needs during the internship.

Delay in internship posting delays licensure and therefore creates anxiety, denies the graduates opportunity to work and contribute to health service delivery as well as interruption of skills mastery process which impacts on the quality of health services delivered in future.

Currently the Clinical Officers interns are in two categories namely:

- i. BSc Clinical Medicine
- ii. Diploma Clinical Medicine

The cost for implication for the current internship stipend is as spread in the table below:

Category	No. of interns required	Amount for implementation
Diploma	1605	1605*15,000 = Ksh.288,900,000 PA
BSc	243	243*98000 = Ksh. 285,768,000PA
Total	1848	Ksh. 574,668,000

The ministry of health is mandated to ensure that all eligible officers are facilitated by posting to internship centres and paying their salary/stipend.

AND JUSTIFIED BY LAW TO INCLUDE:

3. Article 259 of the Constitution of Kenya provides that the Constitution must be interpreted in a manner that promotes its purposes, values and principles; advances the rule of law and human rights and fundamental freedoms in the Bill of Rights. Permits the development of the law and contributes to good governance **thus:**

(1) This Constitution shall be interpreted in a manner that–

(a) promotes its purposes, values and principles;

(b) advances the rule of law, and the human rights and fundamental freedoms in the Bill of Rights;

(c) permits the development of the law; and

(d) contributes to good governance.

4. Article 41 of the Constitution of Kenya, 2010, we are entitled to constitutional privileges of Fair Labour Practices; this being a Human Right. The article reads in part:

Labour relations (1) every person has the right to fair Labour practices.

(2) Every worker has the right– (a) to fair remuneration;

5. This act is not only unfair but discriminatory in nature and goes against the doctrine of fair labour practice ordained in Article 41 of the Constitution of Kenya, 2010 as well as the Employment Act No.11 (2007) Laws of Kenya on fair labour practice and discrimination.

6. Both Article 27 of the Constitution and Section 5 of the Act prohibit discrimination on the basis of race, colour, sex, language, religion, political or other opinion, nationality, ethnic or social origin, disability, pregnancy, marital status or HIV status.

7. Section 5(7) of the Act provides that when discrimination has been alleged by an employee, the burden of proof shifts to the employer who must show that it did not take place thus:

Discrimination in employment

(1) It shall be the duty of the Minister, labour officers and the Industrial Court–

(a) to promote equality of opportunity in employment in order to eliminate

discrimination in employment; and

(b) to promote and guarantee equality of opportunity for a person who, is a migrant worker or a member of the family of the migrant worker, lawfully within Kenya.

(2) An employer shall promote equal opportunity in employment and strive to eliminate discrimination in any employment policy or practice.

(3) No employer shall discriminate directly or indirectly, against an employee or prospective employee or harass an employee or prospective employee—

(a) on grounds of race, colour, sex, language, religion, political or other opinion, nationality, ethnic or social origin, disability, pregnancy, marital status or HIV status;

(b) in respect of recruitment, training, promotion, terms and conditions of employment, termination of employment or other matters arising out of the employment.

8. According to the Constitution of Kenya, all human beings are born equal and are equal before the law.
9. It also provides that an employer shall promote equal opportunities in employment and shall ensure that policies and practices of the organization discourage discrimination. Section 5(2) of the Employment Act provides that it's illegal to discriminate in any facet of employment **thus:**

(2) An employer shall promote equal opportunity in employment and strive to eliminate discrimination in any employment policy or practice.

10. The law disallows discrimination in the process of recruitment, training, promotion, terms and conditions of employment, termination of employment and other matters related to employment.
11. The Public Service Commission, Human Resource Policies and Procedures Manual for the Public Service May, 2016 recognizes the establishment, initiation and management of the Internship programs in Kenya. The same that states inter-alia;

(3) Internship programmes shall be guided by the relevant provisions of the Constitution, relevant professional bodies and other policy guidelines and shall not exceed one (1) year.

12. Internship contract is recognized under employment act as a contract of service under apprenticeship of indentured learnership and therefore entitled to enjoy the protection of article 41 of the constitution. Sec. 1 of the Employment Act (interpretation) thus defines an employee as..

"Employee" means a person employed for wages or a salary and includes an apprentice and indentured learner

13. The African Charter on Human and People's Rights, to which Kenya became a state party on 23rd January 1992 and in particular Article 3(2) which provides that every person is entitled to equal protection of the law.
14. Our efforts to resolve these matters with Ministry of health have not yielded since our letters and request for audience to discuss have not been responded to.

JURISDICTION OF THIS HOUSE:

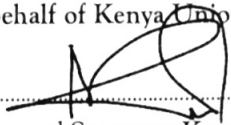
The National Assembly has powers to find a solution to these discrimination and unfair labour practices and remuneration PURSUANT to its relevant standing orders.

WHEREFORE, our humble submission in support of the petition and prayers therein as follows:

1. The Ministry of Health to immediately posts all Clinical Officers due for internship and harmonize their payments to conform to the PSC Circular cited above.
2. For an immediate conversion of the contracts to permanent and pensionable establishments to the UHC Staffs to abide the relevant provisions of the Law.
3. That the staff who served under Covid 19 Emergency Health Response Programme be considered as a priority in appointments.
4. That all the staff who have served under the short terms contracts of one year or three years be paid their Gratuities as the Law provides.

Dated & signed at NAIROBI this.....24thday of....April..... 2023.

Signed For and on behalf of Kenya Union of Clinical Officers


..... George M.
Gibore - General Secretary Kenya Union of
Clinical Officers (KUCO)
kuconec001@gmail.com / 0798 133 674



Salaries & Remuneration
Commission

Rewarding productivity

Ref. No. SRC/TS/19 (64)

19th June, 2023

Mr. J. M Nyegenye, CBS

Clerk of the Senate /Secretary
Parliamentary Service Commission
P O Box 41842-00100

NAIROBI

Dear Mr. Nyegenye,

PETITION REGARDING THE UNFAIR TERMS AND CONDITIONS FOR UNIVERSAL HEALTH COVERAGE (UHC) STAFF AND DELAY IN INTERNSHIP POSTING

Reference is made to your letter Ref. SEN/DSEC/SCLSW/2023/82 dated 8th May, 2023 on the above subject.

The Salaries and Remuneration Commission (SRC) is established under Article 230 of the Constitution of Kenya, 2010, to: a) set and regularly review the remuneration and benefits of all State State officers; and b) advise the national and county governments on the remuneration and benefits of all other public officers. In the execution of its mandate, SRC is guided by constitutional principles set out in Article 230(5) of the constitution and Section 12 of SRC Act, 2011.

SRC is unable to appear before the Committee on 20th June 2023 as requested, owing to other commitments scheduled prior to the invitation. However, the Commission hereby responds to the issues raised in the petition before the Senate Standing Committee on Labour and Social Welfare in regard to Universal Health Care Staff as shown overleaf in the table marked **Appendix 1**.

The purpose of this letter, therefore, is to convey the Commission's inability to appear before the Committee on 20th June 2023 and to provide a response to the issues raised in the petition. SRC will be available for the meeting at a later date.

The Commission appreciates your continued cooperation and support as we discharge our respective mandates.

Yours sincerely,

MRS. ANNE R. GITAU, MBS
COMMISSION SECRETARY/CEO

Appendix 1: SRC Response to issues raised in the Petition before the Senate Standing Committee on Labour and Social Welfare

Issue	SRC Response
<p>Discrimination and unfair remuneration of Universal health coverage staff.</p> <p>a) That both UHC staff and interns have suffered unfair remuneration as their remuneration has not followed the principal of "equal pay for equal work",</p> <p>b) While all other interns are paid using job group in the health sector, diploma Clinical Officers are only paid a meager allowance that can't cater to their basic needs during internship.</p> <p>c) Renewal, extension and absorption of UHC Interns on Permanent and Pensionable Terms.</p>	<p>(i) SRC has not advised on remuneration and benefits of UHC staff and interns;</p> <p>(ii) The current remuneration and benefits of UHC staff and other interns was recommended by Public Service Commission (as per attached Circular);</p> <p>(iii) The renewal, extension and determination of contracts of engagement for the UHC staff is not under the purview of SRC;</p> <p>(iv) In line with SRC's mandate as set out under article 230 (4) of the Constitution and Section 11 of the SRC Act, SRC will continue to engage and respond to stakeholders on the matter, as appropriate.</p>



Telephone: (020) 2223901
When replying quote
E-mail: psck@publicservice.go.ke
Fax: No. 214791

Ref : PSC/ADM/14/V/105

COMMISSION HOUSE
HARAMBEE AVENUE
P.O. Box 30095 - 00100
NAIROBI

13th October, 2016

All Authorized Officers

APPROVED STIPEND AND SUBSISTENCE ALLOWANCE FOR INTERNS IN THE PUBLIC SERVICE

The Public Service Commission, as part of a strategy for Human Resource Development, developed the Internship Policy and Guidelines for the public service, to guide engagement of interns in public service organizations. The purpose of the policy is to ensure that management of internship programmes in such organizations is appropriate and in line with best practices found elsewhere in the world.

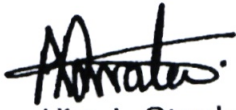
Following release of the policy, the Commission has, with effect from date of this circular, approved the payment of a stipend to interns falling within the following categories:

- i. Holders of at least Bachelor's degree from a recognized university – Ksh.25,000 per month and Ksh.4,000 as Daily Subsistence Allowance (DSA) whenever the intern is required to undertake official assignments outside the assigned duty station; and
- ii. Interns whose terms of agreement offer a different rate of stipend/allowances such as medical, nurse and clinical interns (Diploma and Bachelor's degree holders) will continue with the internship programme under their current terms.

It should be noted that except for interns whose duration for internship is governed by their professional/registration bodies, all the rest will be engaged for a non-renewable period not exceeding three (3) months. Further, the Commission advises that in implementing the policy and guidelines, Ministries, Departments and Agencies should strictly adhere to the provisions contained there-in, especially in regard to declaration of internship vacancies, equality of access to opportunities and fidelity to laws, regulations and procedure, in order to realize the stated objectives of the programme.



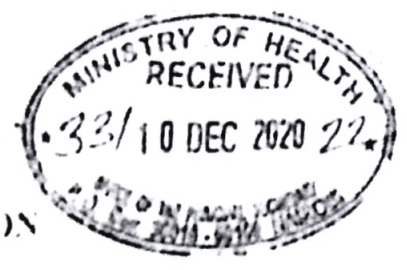
The policy is available for purchase at the Government Printer. It can also be downloaded from the Commission website: www.publicservice.go.ke



Alice A. Otwala, (Mrs.) CBS
For: SECRETARY/CEO
PUBLIC SERVICE COMMISSION

Copy to: Dr. Joseph K. Kinyua, EGH
Chief of Staff and Head of Public Service
State House
NAIROBI

Dr. M. Y. D.



PUBLIC SERVICE COMMISSION

Ministry of Health
Nairobi

REMUNERATION PACKAGE OF UNIVERSAL HEALTH COVERAGE WORKERS

MOH/ADM/STAFF/50M/DLII dated 14.10.2020 on the above subject refer.

The Commission has:

- (i) stated that the Ministry is in the process of implementing a remuneration package for Universal Health Coverage (UHC) health workers as agreed upon through consultative meetings between Ministry of Health and County Governments as follows:
 - a) Diploma holders Ksh. 50,000 p.m. and
 - b) Certificate holders Ksh. 40,000 p.m. and
- (ii) Granted authority for creation of a designation code for the Universal Health Coverage health workers in the IPPD to enable their introduction into the payroll.

Take the necessary action.

Simon K. Potich, FRS
Secretary/CEO

The Principal Secretary
Ministry of Public Service and Gender
NAIROBI



02/06/2023

THE CABINET SECRETARY OF HEALTH
MINISTRY OF HEALTH
Afya House, Cathedral Road
P.O Box 30016 – 00100 Nairobi, Kenya

RE: PENDING OF THE APPOINTMENT LETTERS FOR THE 514 APPOINTED HEALTH CARE WORKERS

On behalf of the 514 appointed health care workers by the Public Service Commission (PSC) in December 2021, we wish to bring your attention the above matter.

The Public Service Commission issued an advertisement for the various position of health care workers May 2021 (find the attached PSC advert document). In October 2021 we were shortlisted and interviewed for the same.

In December 2021 we were notified through our individual portals of the successful appointments. However, to date we are yet to receive our appointment letters or any communication from the Ministry of Health despite our portals still indicating that our appointments were successful.

We have made numerous attempts for the last 1 year from both PSC and Ministry of Health to get an update of the pending appointment letters, but in vain.

We would really appreciate your assistance in finding out from the Ministry of health the official status of the pending appointment letters; following the successful interviews.

Looking forward to hearing back from you at your earliest convenience regarding the matter.

Sincerely,

Tony M. Kilichu. (tonymutabari@gmail.com)

Benard Asiago. (asiagnosnr@gmail.com)

On behalf of the appointed Healthcare workers.

PUBLIC SERVICE COMMISSION

Our Vision

'A Citizen -Centric Public Service'

Our Mission

'To reform and transform the Public Service for efficient and effective service delivery'

VACANT POSITIONS IN THE PUBLIC SERVICE

MINISTRY OF HEALTH

The Public Service Commission is pleased to announce to the general public recruitment of the following health care workers drawn from twelve (12) cadres of health personnel on a **SIX (6) MONTHS CONTRACT**:

Interested and qualified persons are requested to make their applications **ONLINE** through the Commission website: www.publicservice.go.ke or jobs portal: www.psckjobs.go.ke

Please Note:

- (i) Applicants should provide all the details requested for in the advertisement. It is an offence to include incorrect information in the application. Details of academic and professional certificates not obtained by closure of the advert should not be included.
- (ii) Only shortlisted and successful applicants will be contacted.
- (iii) Canvassing in any form will lead to automatic disqualification.
- (iv) The Public Service Commission is committed to implementing the provisions of the Constitution - Article 232 (1) on fair competition and merit, representation of Kenya's diverse communities and affording equal employment opportunities to men and women, members of all ethnic groups and persons with disabilities. **THEREFORE, PEOPLE WITH DISABILITIES, THE MARGINALIZED AND THE MINORITIES ARE ENCOURAGED TO APPLY.**
- (v) **Shortlisted candidates** shall be required to produce **originals** of their National Identity Card, academic and professional certificates and transcripts during interviews.
- (vi) It is a criminal offence to present fake certificates/documents.

Applications should reach the Commission **on or before 24th May, 2021 latest 5.00 pm (East African Time)**

**SENIOR MEDICAL OFFICER (EPIDEMIOLOGIST)- ONE (1) POST -
V/NO. 69/2021**

Salary Scale: Ksh.87,360p.m - Ksh.121,430 p.m. (CSG 7/JG 'P')

Requirement for appointment

For appoint to this grade an officer must have:

- (i) a Bachelor of Medicine and Bachelor of Surgery (M.B.CH.B) degree from an institution recognized by the Medical Practitioner and Dentists Board;
- (ii) a Masters degree in Epidemiology from a recognized institution;
- (iii) a registration Certificate by the Medical Practitioner and Dentists Board; and
- (iv) a valid Practising license from Medical Practitioner and Dentists Board.

NOTE: Certificate in Senior | Management Course lasting not less than four(4) weeks from a recognized institution will be an added advantage.

Duties and responsibilities:

Duties and responsibilities entails undertaking "First-on-Call" duties including:

- (i) clerking, investigating, and managing patient;
- (ii) conducting weekly clinic and theatre days;
- (iii) performing emergency surgeries;
- (iv) working with Medical specialists in wards , theaters, and clinics;
- (v) undertaking medico-legal duties including filling of P.3 forms, court attendance and performing post mortem;
- (vi) undertaking medical examinations;
- (vii) respond to intern calls training and supervising Medical Officer (Intern) and other student;
- (viii) ensuring data and information is collected, transmitted and utilized to benefit the customer and service provider; and
- (ix) preparing medical reports.

**MEDICAL OFFICER- SEVENTY SEVEN (77) POSTS
V/NO. 70/2021**

Salary Scale: Ksh.49,000 p.m Ksh 87,360 p.m. - (CSG 8/JG 'N')

Requirements for Appointment:

For appointment to this grade, an officer must have:

- (i) a Bachelor of Medicine and Bachelor of Surgery Degree(M.B;Ch.B. or any other equivalent qualification from an institution recognized by Medical practitioners and Dentists Board;
- (ii) successfully completed one (1) year internship from a recognized institution; and
- (iii) registration license from the Medical Practitioners and Dentists Board.

Duties and Responsibilities:

Duties and responsibilities entails;

- (i) diagnosing, caring and treating Diseases ,
- (ii) performing medical and surgical procedures,
- (iii) preparing and responding to emergencies and disasters,
- (iv) participating in management of medicines, medical instruments and equipment, providing health Education ,
- (v) maintaining Health Medical Records, health information and data,
- (vi) counseling patients and their relatives on diagnosis and bereavement;
- (vii) teaching and coaching medical students, nursing students and clinical officer interns and preparing requisite documents for registration.

MEDICAL SPECIALIST (ANAESTHESISTS) FORTY-SEVEN (47) POSTS - V/NO. 71/2021

Salary Scale: Ksh.87,360p.m - Ksh.121,430 p.m. (CSG 7/JG 'P')

Requirements for Appointment

For appointment to this grade an officer must have:

- (i) a Bachelor of Medicine and Bachelor of Surgery (M.B.CH.B) degree from an
- (ii) institution recognized Medical Practitioner and Dentists Board;
- (iii) a Masters degree in Anaesthesia from a recognized University.
- (iv) a registration Certificate by the Medical Practitioners and Dentists Board; and
- (v) a Valid practising license from Medical Practitioner and Dentists Board.

NOTE: Certificate in Senior Management Course lasting not less than four (4) weeks from a recognized institution will be an added advantage.

Duties and responsibilities

Duties and responsibilities at this level will entail:-

- (i) reviewing patients and instructing in writing all the recommendation;
- (ii) undertaking "First-on-Call" duties including clerking investigating, and managing patient; conducting weekly clinic and theatre days;
- (iii) managing health facilities at various tiers in communities;
- (iv) responding to intern call; training, supervising and mentoring Medical Officers (Intern) and other student;
- (v) performing emergency surgeries, undertaking medical examinations and preparing medical Board Proceedings;
- (vi) carrying out community diagnosis, care and treatment;
- (vii) ensuring data and information is collected, transmitted and utilized to benefit the customer and service provider; and

- (viii) conducting disease surveillance; prevention and control; carrying out health education and promotion; and preparing medical reports.

MEDICAL SPECIALIST (PHYSICIAN) TWENTY FIVE (25) POSTS - V/NO.72/2021

Salary Scale: Ksh.87,360p.m - Ksh.121,430 p.m. (CSG 7/JG 'P')

Requirements for Appointment

For appointment to this grade an officer must have:

- (i) a Bachelor of Medicine and Bachelor of Surgery (M.B.CH.B) degree from an institution recognized by the Medical Practitioner and Dentists Board;
- (ii) a Masters degree in Medicine / Internal Medicine from a recognized University;
- (iii) a registration Certificate by the Medical Practitioners and Dentists Board;
- (iv) a valid practising license from Medical Practitioner and Dentists Board;

NOTE: Certificate in Senior Management Course lasting not less than four (4) weeks from a recognized institution will be an added advantage.

Duties and responsibilities:

Duties and responsibilities at this level will entail:-

- (i) reviewing patients and instructing in writing all the recommendation; undertaking "First-on-Call" duties including clerking investigating, and managing patient;
- (ii) conducting weekly clinic and theatre days;
- (iii) managing health facilities at various tiers in communities;
- (iv) responding to intern call; training, supervising and mentoring Medical Officers (Intern) and other student;
- (v) performing emergency surgeries, undertaking medical examinations and preparing medical Board Proceedings;
- (vi) carrying out community diagnosis, care and treatment;
- (vii) ensuring data and information is collected, transmitted and utilized to benefit the customer and service provider;
- (viii) conducting disease surveillance; prevention and control; carrying out health education and promotion; and
- (ix) preparing medical reports

PRINCIPAL REGISTERED CLINICAL OFFICER I (ANAESTHESISTS) SIXTY (60) POSTS - V/NO. 73/2021

Salary Scale: Ksh.87,360p.m - Ksh.121,430 p.m. (CSG 7/JG 'P')

Requirements for Appointment

For appointment to this grade, an officer must have:

- (i) a Diploma in Clinical Medicine and Surgery or Clinical Medicine and Community Health from a recognized institution;
- (ii) a Higher Diploma in Clinical Medicine (Anesthesia).
- (iii) A Certificate of Registration by Clinical Officers' Council.

NOTE: Certificate in Senior Management Course lasting not less than four (4) weeks from a recognized institution will be an added advantage;

Duties and responsibilities:

Duties and responsibilities at this level will include:

- (i) taking history, examining, diagnosing and treating patients' common ailments at an outpatient or inpatient health facility;
- (ii) implementing Community Health Care activities in liaison with other health workers;
- (iii) guiding and counseling patients, clients and staff on health issues;
- (iv) sensitizing patients and clients on preventive and promotive health;
- (v) carrying out minor surgical procedures as per training and skill;
- (vi) collecting and compiling clinical data; and
- (vii) referring patients and clients to appropriate health facilities.

PHARMACIST- EIGHT (8) POSTS V/NO. 74/2021

Salary Scale: Ksh.49,000 p.m - Ksh 87,360 p.m. - (CSG 8/JG 'N')

Requirements for Appointment

For appointment to this grade, an officer must have:

- (i) a Bachelor of Pharmacy (B. Pharm) degree from an institution recognized by Pharmacy and Poisons Board;
- (ii) successfully completed one (1) year internship from a recognized institution; and
- (iii) registration Certificate of by Pharmacy and Poisons Board;

Duties and Responsibilities:

Duties and responsibilities entails;

- (i) screening prescriptions for legal validity, drug contraindications, drug interactions, appropriateness of dose, frequency and duration of dosing and patient convenience;
- (ii) preparation and dispensing of medicines according to good dispensing practices and counselling of patients on use of medicines;
- (iii) making of extemporaneous preparations;
- (iv) participating in ward rounds;
- (v) identifying medicinal gaps and challenges;

- (vi) maintaining a daily activity log book for recording all activities undertaken;
- (vii) recommending over the counter (OTC) medicines to patients/ clients with simple medical conditions and making necessary referrals; and
- (viii) making entries into relevant inventory management records and registers.

REGISTERED NURSE III (ICU) ONE HUNDRED (100) POSTS V/NO. 75/2021

Basic Salary Scale: Ksh.25,470- Ksh.33,950 p.m. - (CSG 12/JG 'H')

Requirement for Appointment

For appointment to this grade, a candidate must have:-

- (i) a Diploma in any of the following disciplines: Kenya Registered Community Health Nursing, Kenya Registered Nursing, Kenya Registered Midwifery, Kenya Registered Nursing/Midwifery or Kenya Registered Nursing/Mental Health and Psychiatry from a recognized institution;
- (ii) Registration Certificate issued by the Nursing Council of Kenya;
- (iii) Valid practicing license from Nursing Council of Kenya;

Duties and Responsibilities

This is the entry and training grade for this cadre. An officer at this level will work under the guidance of a senior officer. Duties and responsibilities at this level will entail:

- (i) assessing, planning, implementing nursing interventions and evaluating patient's outcomes;. providing appropriate healthcare service including Integrated Management of Childhood Illnesses (IMCI), immunization, PMTCT, ante-natal care and delivery, providing health education and counseling to patients/clients and community on identified health needs;
- (ii) referring patients and clients appropriately;
- (iii) facilitating patients' admission and initiating discharge plans;
- (iv) maintaining records on patients/clients health condition and care;
- (v) ensuring a tidy and safe clinical environment; and collecting and compiling data.

SENIOR PRINCIPAL ASSISTANT PHYSIOTHERAPIST- EIGHTY (80) POSTS V/NO. 76/2021

Salary Scale: Ksh.87,360p.m - Ksh 121,430 p.m. (CSG 7/JG 'P')

Requirements for Appointment

For appointment to this grade, an officer must have:-

- (i) Diploma in Physiotherapy from a recognized institution;
- (ii) Higher Diploma in Orthopedic Manual Therapy or its equivalent qualification from a recognized institution;

- (iii) Certificate of Registration from the Physiotherapy Council of Kenya (PCK);
- (iv) Current Certificate of Practice from Physiotherapy Council of Kenya (PCK);

NOTE: Certificate in Management Course lasting not less than four (4) weeks from a recognized institution will be an added advantage.

Duties and Responsibilities

Duties and responsibilities at this level entail:-

- (i) treating and rehabilitating patients/clients using Physiotherapy interventions i.e. electrotherapy, manipulative therapy/technology, exercise therapy among others in clinical areas and the community;
- (ii) planning and organizing group Physiotherapy treatment/sessions for patients and clients; evaluating treatment outcomes for review, placement, referral or discharge;
- (iii) initiating community disability assessment outreach programs;
- (iv) liaising with other stakeholders in providing appropriate advice to patients/clients on exercise, posture and movement;
- (v) providing health promotion and education to patients/clients on neuro-musculoskeletal disorders and health;
- (vi) maintaining an up-to-date data base for Physiotherapy services for input in to the integrated health information system;
- (vii) inducting students on practical training on physiotherapy services;
- (viii) requisitioning and ensuring availability and proper utilization of Physiotherapy supplies and equipment as well as giving support and health education to patients and relatives in hospital; analyzing data and preparing reports; and
- (ix) coaching and mentoring of staff.

PUBLIC HEALTH OFFICER I (EPIDEMIOLOGISTS - TWO (2) POSTS V/NO. 77/2021

Salary Scale: Ksh.38,270 - Ksh.51,170 p.m. - (CSG10/JG 'K')

Requirements for Appointment:

For appointment to this grade, an officer must have:

- (i) a Bachelors Degree in Environmental Health or Public Health from a recognized Institution;
- (ii) Certificate in Field Epidemiology course lasting not less than three months;
- (iii) Certificate of Competence from the Association of Public Health Officers.

Duties and responsibilities:

Duties and responsibilities will entail:

- (i) identifying environmental health issues at community level;
- (ii) compiling and maintaining up to date records of services rendered;
- (iii) assessing health needs of the community; implementing sanitation and hygiene standards in the community;

- (iv) sensitizing communities on food and water safety measures; and
- (v) compiling data on disease trends.

CLINICAL PSYCHOLOGIST I - THIRTY SEVEN (37) POSTS V/NO. 78/2021

Basic Salary Scale: Ksh.31,270 - Ksh.41,260 p.m. - (CSG11/JG 'J')

Requirements for Appointment

For appointment to this grade, a candidate must have;

- (i) Degree in Psychology or Health/Medical Psychology, Counselling Psychology from a recognized institution;
- (ii) Registration with the relevant professional regulatory bodies; and
- (iii) One year internship practice in a health facility under supervision of a senior psychologist/ registered mental health professional.

Duties and responsibilities:

Duties at this level will entail;

- (i) conducting psychological assessment and diagnosis of the clients and providing intervention and possible referrals; and
- (ii) keeping appropriate records.

MEDICAL LABORATORY OFFICER (EPIDEMIOLOGISTS) - FIVE (5) POSTS V/NO. 79/2021

Salary Scale: Ksh.38,270 - Ksh.51,170 p.m. - (CSG10/JG 'K')

Requirements for appointment:

For appointment to this grade, a candidate must have:-

- (i) Bachelor's Degree in Medical Laboratory Sciences or any other equivalent qualification from an institution recognized by the Medical Laboratory Technicians and Technologist Board;
- (ii) Certificate in Field Epidemiology course lasting not less than three months;
- (iii) Registration Certificate issued by the Kenya Medical Laboratory Technicians and Technologist Board (KMLTTB);
- (iv) Valid practicing license from the Kenya Medical Laboratory Technicians and Technologist Board.

Duties and Responsibilities

Duties and responsibilities will entail:

- (i) receiving and scrutinizing laboratory requisition forms and specimens;
- (ii) preparing clients for collection of specimens;
- (iii) receiving, collecting, labelling and registering patients specimens;
- (iv) preparing laboratory reagents;
- (v) examining specimens; writing and recording results;

- (vi) preparing stains and reagents;
- (vii) recruiting and preparing bleeding of blood donors for transfusion services;

**MEDICAL LABORATORY TECHNOLOGIST III - SEVENTY TWO (72) POSTS
80/2021**

Salary Scale: Ksh.31,270 - Ksh.42,210 p.m. - (CSG 12/JG 'H')

Requirements for Appointment:

For appointment to this grade, an officer must have:

- (i) a Diploma in Medical Laboratory Technology from a recognized institution;
- (ii) Registration Certificate issued by the Medical Laboratory Technicians and Technologist board of Kenya;
- (iii) Valid practicing license from the Medical Laboratory Technicians and Technologist board of Kenya;

Duties and Responsibilities:

Duties and responsibilities at this level will entail:-

- (i) coordinating provision of laboratory services in a number of units/sections;
- (ii) Preparing work plans and programs for laboratory activities;
- (iii) submitting samples to reference laboratories and institutes for further analysis;
- (iv) preparing laboratory manuals and quality specifications;
- (v) carrying out efficacy tests;
- (vi) initiating requisition proposals and undertaking technical evaluation for laboratory supplies/equipment and formulating technical laboratory standards.
- (viii) performing blood grouping and storing blood products to peripheral health facilities; and
- (ix) processing the specimen according to the specified Standards Operating Procedures (SOP).

**SECRETARY/CEO
PUBLIC SERVICE COMMISSION**

COUNTY
OUR REF: CGN/CPS PP/VOL.1/22/1839

Date: 3rd July 2023

Name: [REDACTED]

Job Title: [REDACTED]

PF/No: [REDACTED]

Dear Sir/Madam,

**RENEWAL OF CONTRACT AS A MEDICAL LABORATORY TECHNOLOGIST III
UNDER THE NATIONAL GOVERNMENT/MINISTRY OF HEALTH UNIVERSAL
HEALTH COVERAGE (UHC) PROGRAMME.**

I am pleased to convey the decision of the Public Service Commission as communicated by the Cabinet Secretary, Ministry of Health vide a letter Ref MOH/ADM/VOL II/58 dated 31st May 2023. The Commission approved for renewal of your contract of service under the National Government's Universal Health Coverage (UHC) Programme for **three (3) years** with effect from 21st May 2023.

During the term of the appointment, you will be subjected to all rules and regulations applicable to the County Public Servants, which are currently in force or may be promulgated from time to time.

COUNTY GOVERNMENT OF TAITA TAVETA
COUNTY PUBLIC SERVICE BOARD

Telephone: 0710988455

P.O Box Private Bag

Email: cpsb@taitataveta.go.ke

VOI

Ref: CPSB/TTC/ST.5A/VOL.4/121

3rd July 2023



**RENEWAL OF CONTRACT AS A ORTHOPAEDIC TRAUMA TECHNICIAN UNDER
MINISTRY OF HEALTH UNIVERSAL HEALTH COVERAGE (UHC) PROGRAMME**

I am pleased to convey the decision of the Public Service Commission as communicated by the Cabinet Secretary Ministry of Health vide a letter Ref. MOH/ADM/VOL11/58 dated 31st May, 2023. The Commission approved for renewal of your contract of service in the position of **Orthopaedic Trauma Technician** under the Government's Universal Health Coverage (UHC) Programme for a period of three (3) years with effect from **17th June 2023**.

Kindly note that the terms and conditions of service remains as per the previous employment contract.

During the term of appointment, you will be subjected to all rules and regulations applicable to county public servants, which are currently in force or may be promulgated from time to time.

You are required to confirm your acceptance of this contract renewal offer by signing and returning the original of the attached acceptance clause form.

P O BOX 880 -50300

MARAGOLI

Email: cpsb@vihiga.go.ke

Queens Arcade, along Kisumu - Kakamega Road, Mbale Town.

"Transforming Public Service"

When Replying Please Quote
OUR REF: 33810391

Date: 22nd June, 2023

[REDACTED]
IDENTIFICATION NUMBER: [REDACTED]

Dear [REDACTED]

RE: RENEWAL OF CONTRACT

I am pleased to convey the decision of the Cabinet Secretary of the Ministry of Health that your contract service, in the position of **Kenya Registered Community Health Nurse** at **Job Group "H"** under the National Government's Universal Health Coverage (UHC) programme, be and is hereby renewed for a period of **three (3) year** with effect from 27th July, 2023.

The terms and conditions of service for this contract remain the same. Please signify your acceptance of this offer by signing and returning the attached form in original.

Ensure you fill Assets and Wealth Declaration form and submit the same to the County Public Service Board.


Noah Bruce K. S. Alpha (Mr.)

For Secretary/CEO County Public Service Board

CC.

- Principal Secretary, Ministry of Health
- County Secretary & Head of Public Service
- Chief Officer Health Services



"Building and sustaining community health services"

Tel.: 0782903352 / 0722688528

Email: info@chesoa.org

P.O Box 27892-00100- NAIROBI.

COMMUNITY HEALTH SERVICES & DEVELOPMENT OFFICERS ASSOCIATION

MEMORANDUM TO THE SENATE

PETITION REGARDING THE UNFAIR TERMS AND CONDITIONS FOR UNIVERSAL HEALTH COVERAGE (UHC) FOR COMMUNITY HEALTH ASSISTANTS (CHAs).

Rationale

In June 2020, at the height of COVID19 pandemic, the Ministry of Health employed about 1770 Community health assistants (CHAs) in cohort 1 with an addition of 250 CHAs cohort 2 in September (referenced as CGS 13 V/NO.GG/8/2020 1770 posts and CGS 13 V/NO.102/2020 250 posts respectively) on a three-year UHC contract and deployed them in different County Government(s). The contracts lapsed in May 2023 for the 1st cohort whereas the 2nd cohort lapses in September, 2023.

The UHC staff who are on contract have been diligently providing critical health services across the country since they were engaged. These contracts attracted a consolidated salary that have seen them earn half of what their peers earn working in the same environment.

It is sad to note that, In February 2023, the Intergovernmental Summit sitting in Naivasha resolved that the Ministry of Health to extend the contracts of UHC staff for a further period of three year-term under the same terms and conditions. These staff are disturbed and demotivated by these development as they had valid expectations that they would have been absorbed on permanent and pensionable terms or their remuneration improved to be equal with their peers whom they work together under same conditions but earning differently.

Article 41 of the Constitution of Kenya, 2010, we are entitled to constitutional privileges of Fair Labour Practices; this being a Human Right. The article reads in part: 41. Labour relations (1) every person has the right to fair Labour practices. (2) Every worker has the right— (a) to fair remuneration; ...

Article 259 of the Constitution of Kenya provides that the Constitution must be interpreted in a manner that promotes its purposes, values and principles; advances the rule of law and human rights and fundamental freedoms in the Bill of Rights. Permits the development of the law and contributes to good governance. The Ministry of Health was guided by the fact that they required Community Health Assistants (CHAs) who were specifically trained and had requisite skill to perform the specified tasks including:

1. To enable Universal Health Coverage (UHC) achieve its mandate of Collect and collate the community Health House data to be uploaded to the Electronic Community Health Information System (eCHIS).
2. Supervise the Community Health Promoters (CHPs) when collecting data in the Household;
3. Train CHPs on the specified Community Health Volunteers modules as per the CHS Guidelines and policy;
4. Conduct Community Health Dialogue and Community Health Action days;
5. Give technical support to Community Health Committees and
6. Be able to provide preventive and promotive health on Maternal & Reproductive health, Family Planning, child health & New born health, Environmental Health, HIV, TB & Malaria, Non-Communicable Diseases Communicable Diseases, Mental Health, Gender and Disaster Management.

The two cohorts of UHC Contracted staff for Community Health Assistants UHC submit therefore, that they have suffered unfair remuneration as their remuneration has not followed the principle of **“Equal pay for Equal work”**.

We also submit that, our members have been psychologically, socially, further exhibit physical symptoms of Mental disorders that have negated their usual service delivery and personal growth as per human existential process which is a fundamental right. Consequently, during the wake of Covid 19, a number of CHAs lost their lives in line of their duty. Denying them their rightful opportunity to be considered permanent and pensionable and enjoying all the rights other cadres do enjoy is discriminatory.

This act is not only unfair but discriminatory in nature and goes against the doctrine of fair labour practice ordained in Article 41 of the Constitution of Kenya, 2010 as well as the Employment Act No.11 (2007) Laws of Kenya on fair labour practice and discrimination.

Issues that need to be Addressed by the Public Service Commission, Ministry of Health and Council of Governors.

1. Immediate payment of Community Health Assistants serving under UHC and whose contracts ended in May 2023. Examples of UHC staff missing salaries are from Kajiado, Elgeyo Marakwet Counties.
2. Confirm Community Health Assistants serving under UHC into permanent and pensionable terms.
3. Employ 7000 more Community Officers Health Officers and Community Health Assistants.

Conclusion

For easy transition and goals implementation as annexed above, it is important to note that on behalf of our members we strongly rally behind other professional bodies in support of:

Both Article 27 of the Constitution and Section 5 of the Act prohibit discrimination on the basis of race, colour, sex, language, religion, political or other opinion, nationality, ethnic or social origin, disability, pregnancy, marital status or HIV status. Section 5(7) of the Act provides that when discrimination has been alleged by an employee, the burden of proof shifts to the employer who must show that it did not take place.

According to the Constitution of Kenya, all human beings are born equal and are equal before the law. In part, Section 5 of the Employment Act provides that it's illegal to discriminate in any facet of employment. It also provides that an employer shall promote equal opportunities in employment and shall ensure that policies and practices of the organization discourage discrimination.

The law disallows discrimination in the process of recruitment, training, promotion, terms and conditions of employment, termination of employment and other matters related to employment.

Therefore, acting in accordance to the law is paramount and key to promoting the wellbeing of our members.

The Senate has a mandate and powers to find a solution to these discrimination and unfair labour practices in remuneration amongst our members and as such we are seeking your support to achieve this.

Wycliffe Ogenya

National General Secretary

Dated 20.06.2023



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COMMUNITY HEALTH SERVICES & DEVELOPMENT OFFICERS ASSOCIATION

CHESOA SUBMISSIONS ON: PETITION REGARDING THE UNFAIR TERMS AND CONDITIONS FOR UNIVERSAL HEALTH COVERAGE (UHC) FOR COMMUNITY HEALTH ASSISTANTS (CHAs)

Background of Community Health

Health is a basic human right as emphasized in the Kenyan constitution 2010 Chapter 4, Bill of Rights. Health is the responsibility of every individual, family and community to seek and demand for health services. Community Strategy is an approach to pursue our responsibility and claim our right accordingly. **"Afya yetu, jukumu letu!" is a slogan for Community Strategy.**

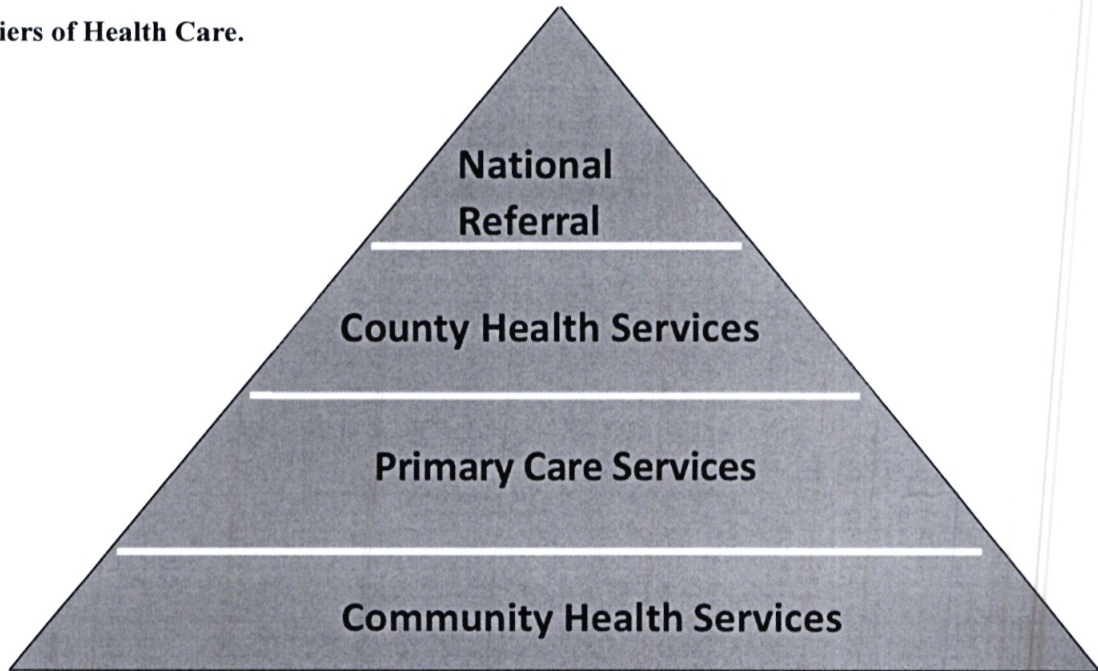
Every citizen has the right to access quality healthcare. Article 43 of the Constitution of Kenya, 2010. 43. (a) to the highest attainable standard of health, which includes the right to health care services, including reproductive health care. National legislative bills (Community Health Services Bill, 2020 before the Senate and Community Health Workers Bill, 2020 before the National Assembly) will go a long way in putting in place the legal framework for delivery of quality community health services in the country especially during this Universal Health Coverage (UHC) dispensation.

Community Health Strategy model was established following the National Strategic Health Sector Plan II of 2005. The community health approach is a key pillar of the Primary Health Care (PHC) adopted by countries in 1978. Community health approach recognizes effective improvement of health care delivery to address the heavy burden of disease and therefore contribute to the health and socio-economic development. Kenya adopted the PHC approach in 1980, but was focused primarily on healthcare facilities, with little community participation. In 2004, evaluation of the Kenya Health Policy Framework reported an overall decline in health-related indicators, despite increased funding to the health sector. Community Health Strategy (CHS) was developed in 2006 both as a commitment to global health goals and to support the achievement of the Second National Health Sector Strategic Plan (2005-2010).

The first group of Community Health Extension Workers (CHEWs), Community Health Workers and Committees were trained in 2010. The Ministry of Health then embarked on Economic Stimulus Program (ESP) through which 2100 CHEWs were employed in the year 2011. This gave rise to increase in the number of Community Health Workers in the country as many more community health units were established. The Kenya Health Policy (2014-2030) entrenches the community health strategy model as one of the pillars to achieve equitable, affordable quality community health services in the country.

The term **CHEW** has since been replaced with **Community Health Officers and Assistants (CHO/As)** following the development of the Scheme of Service for Community Health Services Personnel of November 2013.

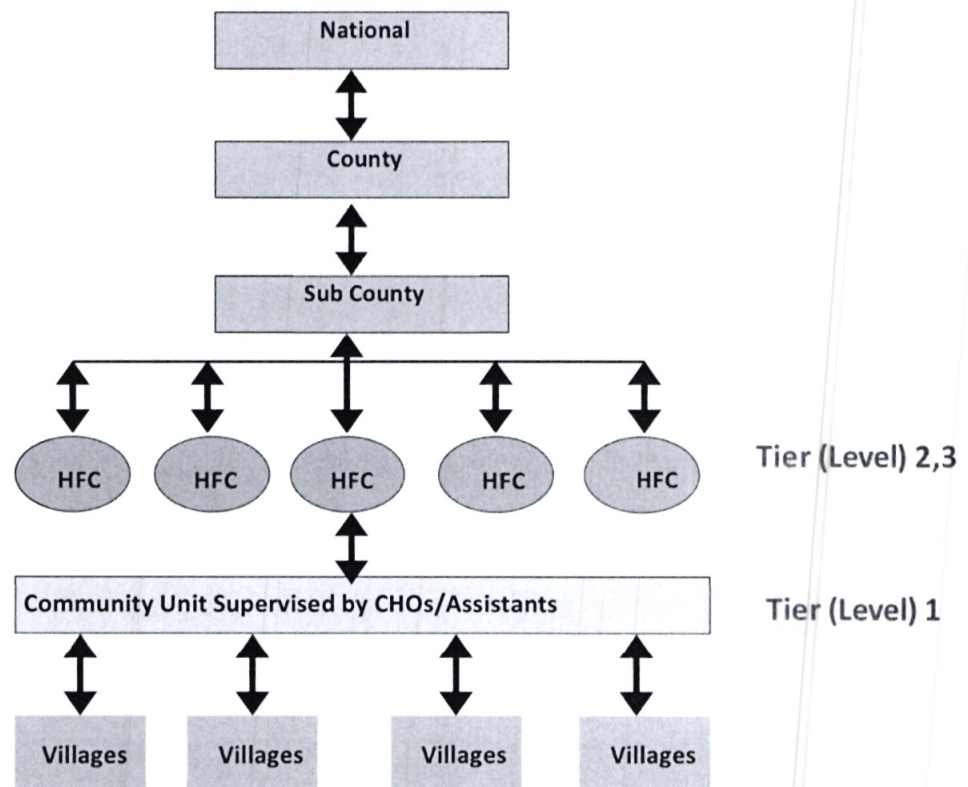
Tiers of Health Care.



Tiers of Health Service Delivery:

Community Health Volunteers (CHVs) work closely together with Community Health Officers/Assistants (CHO/A) and health care providers at Tier 2 (Primary Care Services) and sometimes Tier 3 (County Health Services) to strengthen the linkage between community and health service delivery.

Organizational Structures and Linkages



Rationale

In June 2020, at the height of COVID19 pandemic, the Ministry of Health employed about 1770 Community health assistants (CHAs) in cohort 1 with an addition of 250 CHAs cohort 2 in September (referenced as CGS 13 V/NO.GG/8/2020 1770 posts and CGS 13 V/NO.102/2020 250 posts respectively) on a three-year UHC contract and deployed them in different County Government(s). The contracts lapsed in May 2023 for the 1st cohort whereas the 2nd cohort lapses in September, 2023.

The UHC staff who are on contract have been diligently providing critical health services across the country since they were engaged. These contracts attracted a consolidated salary that have seen them earn half of what their peers earn working in the same environment.

It is sad to note that, In February 2023, the Intergovernmental Summit sitting in Naivasha resolved that the Ministry of Health to extend the contracts of UHC staff for a further period of three year-term under the same terms and conditions. These staff are disturbed and demotivated by these development as they had valid expectations that they would have been absorbed on permanent and pensionable terms or their remuneration improved to be equal with their peers whom they work together under same conditions but earning differently.

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1. To enable Universal Health Coverage (UHC) achieve its mandate of Collect and collate the community Health House data to be uploaded to the Kenya Health information system;
2. Supervise the Community Health Promoters (CHPs) when collecting data in the Household;
3. Train CHPs on the specified Community Health Volunteers modules as per the CHS Guidelines and policy;
4. Conduct Community Health Dialogue and Community Health Action days;
5. Give technical support to Community Health Committees and
6. Be able to provide preventive and promotive health on Maternal & Reproductive health, Family Planning, child health & New born health, Environmental Health, HIV, TB & Malaria, Non-Communicable Diseases Communicable Diseases, Mental Health, Gender and Disaster Management.

The two cohorts of UHC Contracted staff for Community Health Assistants UHC submit therefore, that they have suffered unfair remuneration as their remuneration has not followed the principle of **“Equal pay for Equal work”**.

We also submit that, our members have been psychologically, socially, further exhibit physical symptoms of Mental disorders that have negated their usual service delivery and personal growth as per human existential process which is a fundamental right. Consequently, during the wake of Covid 19, a number of CHAs lost their lives in line of their duty. Denying them their rightful opportunity to be considered permanent and pensionable and enjoying all the rights other cadres do enjoy is discriminatory.

This act is not only unfair but discriminatory in nature and goes against the doctrine of fair labour practice ordained in Article 41 of the Constitution of Kenya, 2010 as well as the Employment Act No.11 (2007) Laws of Kenya on fair labour practice and discrimination.

Justification

Gaps and Challenges due to Unfair and discriminatory act to the Service Delivery in Community health and UHC

A renewed focus on service delivery through an integrated and people-centered is critical to reaching underserved and marginalized CHAs to ensure that everyone has access to the quality health services they need as per UHC and PHC Objects.

WHAT WE PROPOSE FOR UHC STAFF	POLICY ACTION
Frontline services delivery expanded, particularly Primary Health Care	Strengthen community-based platforms, which deliver people-centered frontline services and integrate into the overall national health system to confirm UHC Community Health Assistants to permanent and pensionable terms
Investment in skilled health workers scaled up	Address the country shortage of Community Health Assistants skills and scale up in mobilizing a community-based workforce to reach the Standards of 5 CHAs for 10 CHPs in a Community Health Unit
Meeting the health needs of households including vulnerable and marginalized groups	Re-orient community health services systems to ensure the right balance between health promotion and prevention; strengthen the coordination of services within and beyond the community health sector; and engage people and communities to take an active role in their health and social accountability of the health system by empowering the CHPs through CHAs who are their supervisors
Through Community Health Assistants, Patient safety and quality of health services improved	Standardize prevention and health promotion protocols and practices; monitor quality of services systematically; strengthen professional and regulatory bodies; increase the voice of users to ensure their right to participate and influence; and make governance and accountability systems inclusive in health facilities by offering CHAs their rightful confirmation to the terms and conditions of employment as per the law

Conclusion

For easy transition and goals implementation as annexed above, it is important to note that on behalf of our members we strongly rally behind other professional bodies in support of:

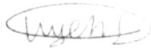
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The law disallows discrimination in the process of recruitment, training, promotion, terms and conditions of employment, termination of employment and other matters related to employment.

Therefore, acting in accordance to the law is paramount and key to promoting the wellbeing of our members.

The Senate has a mandate and powers to find a solution to these discrimination and unfair labour practices in remuneration amongst our members and as such we are seeking your support to achieve this.



Wycliffe Ogenya

National General Secretary

Dated 20.06.2023