

REPUBLIC OF KENYA

19 JUL 2016

PARLIAMENT
OF KENYA
LIBRARY



Handwritten notes:
By the chairperson
Rachel Mwanari
on Tuesday
19.7.16
JL

THE NATIONAL ASSEMBLY

ELEVENTH PARLIAMENT – FOURTH SESSION – 2016

THE DEPARTMENTAL COMMITTEE ON HEALTH

REPORT ON THE CONSIDERATION OF THE PETITION BY MR. ELIJAH
KINGORI GITHIMA REGARDING THE DEPLORABLE STATE OF MENTAL
HEALTH CARE FACILITIES IN KENYA

CLERK'S CHAMBERS
DIRECTORATE OF COMMITTEE SERVICES
PARLIAMENT BUILDINGS
NAIROBI

JULY, 2016

TABLE OF CONTENTS

1.0 PREFACE.....	6
1.1 MANDATE OF THE COMMITTEE	7
1.2 OVERSIGHT	8
1.3 MEMBERS OF THE COMMITTEE.....	9
1.4 COMMITTEE SECRETARIAT	10
1.5 ADOPTION OF THE REPORT	11
1.6 LIST OF RECOMMENDATIONS.....	12
2.0 BACKGROUND.....	13
3.0 EVIDENCE.....	14
3.1 Evidence from the Mathare National Teaching and Referral Hospital Management	14
3.1.1 Presentation from the Hospital Administration.....	14
3.1.2 Presentation from the Workers Union.....	16
3.2 Evidence from the Ministry of Health.....	17
3.3 Evidence from the State Department of Correctional Services.....	20
3.3.1 The Role of Probation and Aftercare Services	20
3.3.2 The Role of Kenya Prison Service	21
3.4 Evidence from the State Department of Interior	23
3.4 Evidence from the Power of Mercy Advisory Committee.....	23
3.5 Evidence from the Judiciary.....	24
4.0 COMMITTEE OBSERVATIONS.....	25
5.0 COMMITTEE RECOMMENDATIONS.....	25

CHAIR'S FOREWORD

The Petition by Mr. Elijah Kingori Githima regarding the deplorable state of the mental Health Care facilities in Kenya was tabled before the House pursuant to Standing Order No. 225 (2) (b) by the Hon. Justin B. N. Muturi EGH, MP, Speaker of the National Assembly on behalf of the petitioner on 2nd December, 2015.

In considering the petition, the Committee undertook an inspection visit to the Mathari National Teaching and Referral Hospital on 23rd February 2016 in order to familiarize itself with the situation on the ground. The Committee further held sittings on 11th February 2016, 31st March 2016 and 7th April 2016 where it received from the petitioner, the Principal Secretary Ministry of Health, the Principal Secretary State, Department for Correctional Services, the Attorney General's Office, the Power of Mercy Advisory Committee and the Judiciary their submissions on the Petition

The Committee is thankful to the Office of the Speaker and the Clerk of the National Assembly for the logistical and technical support accorded to it during its Sittings.

On behalf of the Committee, and pursuant to Standing Order, 227 it is my pleasant duty to table in the House the Report of the Departmental Committee on Health on its consideration of a petition the deplorable state of the mental Health Care facilities in Kenya.

THE HON. RACHAEL NYAMAI, MP
CHAIRPERSON DEPARTMENTAL COMMITTEE ON HEALTH

EXECUTIVE SUMMARY

The purpose of this report was to consider and respond to the prayers by Mr. Elijah Kingori Githima regarding the deplorable state of the mental Health Care facilities in Kenya

The Committee found out that the Mathare National Teaching and Referral Hospital which is the only national psychiatry facility in the Country faces many challenges due to lack of proper funding and was in a dilapidated state due to many years of neglect. The Hospital was also facing an acute shortage of staff with one nursing staff taking care of 147 patients in the Maximum Security Unit which was way below the required international standards notwithstanding the security threat that the nursing officers were exposed to.

Additionally, the Committee observed that Mathare Hospital was one of the four National Referral Hospitals in the Country, however, the Hospital was still managed as a unit in the Ministry of Health headquarters which was unconstitutional. There was therefore need to establish the Hospital as an autonomous institution through an Act of Parliament as a National Referral Facility.

The Committee also found out that Mathare National Teaching and Referral Hospital was serving patients referred to it by the Judiciary and Police Service for mental assessment for suitability to take plea, and such patients did not pay the facility neither was the referring government agency making any compensation to the hospital for the expenses incurred by such patients. The Maximum Security Unit of the hospital where the patients referred from police custody and judiciary was also overcrowded and was faced with security challenges. In addition, some patients in this unit had overstayed in the facility as their discharge required court orders.

The Committee further established that there was no proper communication between the Ministry of Health and the other government agencies that required the services of Mathare Hospital and this had resulted into the facility offering its services for free to patients referred from the police custody, judiciary and prisons department.

As a Training institution, the Committee noted that Mathare offered its training facilities to other hospitals offering training to workers without commensurate benefit from such institutions.

The report recommends that that the Ministry of Health should ensure that both the national and county governments invest in health infrastructure to ensure a progressive increase in access to mental health services in line with the Mental Health Policy.

The report also recommends that the Ministry of Health should initiate and fast-track the process of giving Mathare National Teaching and Referral Hospital autonomy by anchoring its gazetted status as a National Teaching and Referral Hospital in law through an Act of Parliament. In the short run, the Ministry of Health should fund the Hospital directly as is the case with other Teaching and Referral Hospitals since it is already gazetted as a National Teaching and Referral Hospital.

The Committee recommends that the Ministry should in the short term increase the financial allocation to the Hospital to cater for more urgent needs like ensuring an adequate supply of new generation psychotropic drugs, adequate medical staff is deployed to the facility and prioritise infrastructural development at the facility in the 2016/2017 financial Year.

The Committee further recommends that the Mathare National Teaching and Referral Hospital should review its relationship with other stakeholders benefiting from the Services offered by the Hospital such as the Judiciary, Kenya Police Service and the Kenya Prisons Service in order to ensure that the Hospital is adequately compensated for such services.

It is also recommended that the Mathare National Teaching and Referral Hospital should reinvent its training programme and sign memoranda of understanding with Universities and other training institutions whose students train at the facility, to ensure that commensurate benefit is received for the services rendered as way of funding the facility.

The Committee also recommends that Mathare National Teaching and Referral Hospital should work closely with Power of Mercy Advisory Committee to provide quarterly report on reformed patients who needed to be considered for Presidential pardon to decongest the facility. The Ministry of Health should work together with the Ministry of Social Welfare, to ensure that the half way homes are set up for the patients who have been abandoned due to stigma associated with mental illness, where such patients could go through occupational therapy to make them useful. This would decongest the hospital.

Lastly, the Committee recommends that Ministry of Health reports back to the Committee on the progress of implementing the Committee recommendations within 90days.

1.0 PREFACE

On 2nd December, 2015, a Petition was tabled before the House pursuant to Article 119 (1) of the Constitution and Standing Order No. 225 (2) (b) by the Hon. Justin B. N. Muturi EGH, MP, Speaker of the National Assembly on behalf of Mr. Elijah Kingori Githima regarding the deplorable state of Mental Health Care facilities in Kenya;

The House pursuant to Standing Order 227 referred the Petition to the Departmental Committee on Health for preparation of the Report and reporting to the House within 60 days as set out in Standing order no 227(2).

1.1 MANDATE OF THE COMMITTEE

2.1 The Committee on Health is one of the Departmental Committees of the National Assembly established under Standing Order 216 with the following terms of reference;

- i) investigate, inquire into, and report on all matters relating to the mandate, management, activities, administration, operations and estimates of the assigned Ministries and departments;
- ii) study the programme and policy objectives of Ministries and Departments and the effectiveness of the implementation;
- iii) study and review all legislation referred to it;
- iv) study, assess and analyse the relative success of the Ministries and Departments as measured by the results obtained as compared with their stated objectives;
- v) **investigate and inquire into all matters relating to the assigned Ministries and Departments as they may deem necessary, and as may be referred to it by the House;**
- vi) vet and report on all appointments where the Constitution or any law requires the National Assembly to approve, except those under Standing Order 204 (Committee on Appointments) ; and
- vii) make reports and recommendations to the House as often as possible, including recommendation of proposed legislation.

2.2 The Committee is also mandated under Standing Order 227 to consider petitions referred to it.

2.3 The Committee is mandated to consider matters related to health, medical care and Health Insurance

1.4 COMMITTEE SECRETARIAT

Clerk Assistant	Ms. Esther Nginyo
Clerk Assistant	Mr. Dennis Mogare
Clerk Assistant	Ms. Ruth Mwhaki
Legal Counsel	Ms. Merlin Ayiro
Research & Policy Analyst	Ms. Marale Sande
Fiscal Analyst	Mr. Joash Kosiba

1.5 ADOPTION OF THE REPORT

We, the Members of the Departmental Committee on Health have, pursuant to Standing Order 199, adopted this Report on the Petition regarding **the deplorable state of the mental Health Care facilities in Kenya** and affix our signatures (Annex 1) to affirm our approval and confirm its accuracy, validity and authenticity today Thursday 9th June 2016.

1.6 LIST OF RECOMMENDATIONS

i. As to the Prayer that the Committee recommends establishment of more mental healthcare facilities in the Country, the Committee recommends:

That the Ministry of Health should in line with the Mental Health Policy ensure that both the national and county governments invest in health infrastructure to ensure a progressive increase in access to mental health services.

ii. As to the Prayer that the Committee ensures provision of adequate budgetary allocation to enable smooth running of medical facilities, the Committee recommends:

1. The Ministry of Health should initiate and fast-track the process of giving Mathare National Teaching and Referral Hospital autonomy by anchoring its gazzeted status as a National Teaching and Referral Hospital in law.
2. The Ministry of Health should fund the Mathare National Teaching and Referral Hospital directly as is the case with other Teaching and Referral Hospitals since it is already gazzeted as a National teaching and Referral Hospital.
3. The Ministry should in the short term increase the financial allocation to the Hospital to cater for more urgent needs like ensuring an adequate supply of new generation psychotropic drugs and rehabilitation of existing facilities.
4. The Ministry of Health should prioritise infrastructural development at the facility in the 2016/2017 financial Year.

iii. As to the prayer that the Committee makes any other order or direction that it deems fit in the Circumstances of the prayers sought, the Committee recommends the following:-

1. The Mathare National Teaching and Referral Hospital should review its relationship with other stakeholders benefiting from the Services offered by the Hospital such as the Judiciary, Kenya Police Service and the Kenya Prisons Service in order to ensure that the Hospital is adequately compensated for such services.
2. The Mathare National Teaching and Referral Hospital should reinvent its training programme and sign memorandums of understanding with Universities and other training institutions whose students train at the facility, to ensure that commensurate benefit is received for the services rendered as way of funding the facility.
3. The Ministry of Health should ensure that adequate medical staff is deployed to the facility by the start of FY 2016/17.
4. Mathare National Teaching and Referral Hospital should work closely with Power of Mercy Advisory Committee to provide quarterly reports on reformed patients who needed to be considered for Presidential pardon to decongest the facility.
5. The Ministry of Health should work together with the Ministry of Social Welfare, to ensure that the half way homes are set up for the patients who have been abandoned due to stigma associated with mental illness, where such patients could go through occupational therapy to make them useful. This would decongest the hospital.
6. The Ministry of Health reports back to the Committee on the progress of implementing the Committee recommendations within 90 days.

2.0 BACKGROUND

The Petition by Mr. Elijah Kingori Githima regarding the deplorable state of Mental Health Care facilities in Kenya was committed to the Committee on Health on 2nd December, 2015 to consider and report back to the House pursuant to Standing Order 227.

The Petitioner drew the attention of the National Assembly to the fact that the Government had neglected the only existing public mental health care facility. In addition, the petitioner noted that Parliament had continuously failed to allocate funds for the operations of the facility. Additionally, he noted that the country was served by one specialized public facility – Mathare National Teaching and Referral Hospital and at level Five Hospitals, the mental wards for mental patients were understaffed and had inappropriate accommodation for psychiatric patients considering that such patients were suicidal. He therefore prayed to the National Assembly through the Departmental Committee on Health to:-

- i. Recommend establishment of more mental healthcare facilities in the country;
- ii. Ensure provision of adequate budgetary allocation to enable smooth running of these medical facilities
- iii. Make any other order or direction that it deems fit in the circumstances of the prayers sought.

3.0 EVIDENCE

3.1 Evidence from the Mathare National Teaching and Referral Hospital Management

The Committee conducted an inspection visit to the Mathare National Teaching and Referral Hospital on Tuesday, 23rd February 2016 where it held a meeting with the hospital administration, the workers union and thereafter inspected the facility.

3.1.1 Presentation from the Hospital Administration

The Medical Superintendent, Mathare National Teaching and Referral Hospital (MNT&R) Dr. Julius Ogato informed the Committee during its visit to the facility on 23rd February, 2016 that:-

1. MNT & R Hospital was a specialized national referral facility for mental health patients that was established in 1904 as a Small Pox isolation Centre and which later became a lunatic Asylum. In 1924, it became Mathari Mental Hospital and later in 1964 it became Mathari Hospital. In 1978, a maximum security unit was opened for law offenders with mental illness.
2. The Hospital was the only public institution in the country offering specialized psychiatric Services, forensic services, drug rehabilitation services and training in psychiatry for doctors and other health workers from both public and private institutions from the region. It also offers a comprehensive care Clinic for HIV patients
3. The hospital had a bed capacity of 700 but with 650 beds currently (332 beds in the civil unit and 377 in the maximum security unit. It had average bed occupancy of 119% in the civil unit and 115 % in the maximum security unit. The demand for new services had led to the closure of some wards to provide space for the other general medical services to reduce stigma associated with mental illness.
4. The average length of stay in the civil unit was 47 days while that of the maximum security unit was 9 months to 3 years.
5. The Hospital had an average of 4, 188 admissions in 2014/2015 and 82,188 outpatients while a Medically Assisted Therapy (MAT) Clinic with the use of Methadone ran at the hospital with an average of 400 patients a day.
6. The total number of staff at the hospital was 483 which was way below the international ratios. There was an acute shortage of Specialist Psychiatrists, Psychiatric nurses, medical social workers, clinical psychologists, occupational therapists and artisans and other cadres.
7. The staffing requirements for the hospital were indicated as follows:-

No	Cadre	No of Staff	Requirement	Gap
1.	Specialist psychiatrists	10	16	6
2.	Nurses	206		
3.	Social Workers	5	19	13
4.	Occupational Therapists	12	26	14
5.	Clinical Psychologists	0	32	32
6.	Medical Officers	14	12	2

7.	Pharmacists	12	35	225
8.	Dentists	6	9	3
9.	Lab technicians	14	33	19
10.	Clinical Officers	7	15	8
11.	HRIO	4	13	9

8. The Hospitals buildings were dilapidated and were designed in a prison like manner. The wards lacked most of the essential facilities such as toilets, bathrooms sink and ventilations. The rehabilitation facilities services were also inadequate.
 9. The Ministry of Roads and Public Works was already on the ground working on the designs and drawings for proposed developments in the hospital and would be providing a report on the requirements in three months.
 10. The hospital had an outstanding water bill of Kshs. 40 Million which had led to disconnection of water services thereby posing the risk of compromised hygiene for the patients. There were no water storage facilities to cushion the hospital water requirement in case of disconnection. The laundry facilities were also inadequate.
 11. The hospital experienced an erratic and inadequate supply of new generation psychotropic drugs and other commodities which led to long hospital stays and high cost of maintenance, frequent readmission of patients, violent behavior thus destruction of hospital property and assault of staff members.
 12. The requirements for the drugs were Ksh 40 Million per year for both psychiatric and general medicine. The hospital had received Ksh 20 Million in the 2015/2016 financial year. Adequate supply of new generation drugs was therefore essential for effective service delivery.
 13. The Hospital was to benefit from the Managed Equipment Service program and was set to receive a general Purpose X ray Unit, mammography x-ray unit, ultra Sound x ray unit and OPG x ray unit.
 14. The Hospital had a poor referral system for mentally ill law offenders. There were also long delays by the legal system in collecting patients after letters of capability to stand trials had been issued. This led to long hospital stays with the average length of stay for maximum security unit ranging from 9 months to 3 years and high maintenance costs yet the Hospital did not get support from the Ministry of Home Affairs as the mentally ill offenders were exempted from paying hospital fees.
 15. Capital offenders were sent for mental assessment at the hospital to assess their fitness to take pleas. Those who were found unfit were admitted until they were fit. Reports to assess the mental capacity of offenders were done three times a week by the hospital. Despite the foregoing, there were no cost sharing measures with the Judiciary for the patients who were referred to the facility.
 16. The hospital was facing financial problems as patients were often abandoned at the hospital due to the stigma associated with mental illness. There was need to establish half way homes to cater for such abandoned patients to ease pressure from the hospital.
-
17. Teaching and research was one of the core functions of the Hospital. The hospital had continued to be the main institution for training medical doctors and other health

- professionals at Diploma, undergraduate and post graduate levels from University of Nairobi, KMTC and other institutions in Kenya. KMTC had a campus headed by a principal within the hospital. Over 4000 health professionals had trained in the institution in the past three years while a bigger number had been turned away due to lack of facilities. The management had signed MOUs with the institutions for trainings and was receiving token payments for the trainings.
18. The demand for training had exceeded the available training facilities and responses. Since 2009, over 1,000 trainees had passed through the Continuing medical department. These were from various institutions including The Aga Khan University, University of Nairobi, Kenyatta University, Kenya Methodist University, AMREF, Mater Hospital and Pumwani Hospital.
 19. The Hospital lacked proper training facilities including lecture theatres with the post graduate students at times having to study from outside or in the cafeteria.
 20. The Hospital was allocated Kshs. 158,500,000 in the Financial Year 2015/2016 as follows:-Recurrent Kshs. 127,000,000 and Development Kshs. 31,500,000. It had collected Kshs 45,000,000 as Facility Improvement Fund. The hospital also receives supplies medical supplies from KEMSA and National Public Health Laboratories.
 21. The Hospital had devised ways to improve revenue as follows:- Installation of relevant Facility Improvement Fund (FIF) software, Market NHIF services to the patients(This would lead to improved hospital cash flow and also reduce waivers), identification and implementation of revenue generating projects i.e. dairy farming and poultry keeping, measures of cost saving i.e. use of solar energy and bio gas etc.
 22. The Hospital needed restructuring and reorganization in order to meet international standards in mental Health as well as the following:
 - a) Increased staffing levels
 - b) Construction of a new psychiatric hospital to match level 6 status,
 - c) Establishment of a neuropsychiatry unit, psycho-trauma Centre, and modern resource Centre
 - d) Ensure an adequate supply of new generation psychotropic drugs,
 - e) Provide counselling of patients and family,
 - f) Provide a safe therapeutic environment for recovery and rehabilitation, vocational training and return to society of patients as productive and independent individuals,
 - g) establish a gender violence and recovery Centre and a patient support Centre,
 - h) establish half way homes for abandoned patients,
 - i) Interministerial collaboration in the treatment and rehabilitation of law offenders admitted in the hospital
 - j) Diagnostic imaging i.e electroencephalogram (EEG), X-ray, Magnetic Resonance Imaging (MRI) and computerised tomography (CT) scans and
 - k) Integration of Services at OutPatientDepartment level

3.1.2 Presentation from the Workers Union

Ms. Agnes K. Mwenda, representing the Union of Kenya Civil Servant informed the Committee that:

1. There was a shortage of staff at the hospital which was interfering with service delivery.
2. The wards were overcrowded i.e. while the average per ward should be 60- 70 patients; the forensic side has 145 patients maximum with one nurse attending to them at night. The overworking predisposed the nurses and other workers to high stress levels.
3. The Hospital had no functional ambulance. In addition, the hospital required a morgue just like in an ordinary hospital.
4. There was need for the nurses to be compensated with special allowances due to the nature of environment that they worked in and for the long working hours.

3.2 Evidence from the Ministry of Health

The Principal Secretary Dr. Nicholas Muraguri informed the Committee as follows:-

1. Globally, 450 million people alive today suffered from mental disorders. In Kenya research indicated that the prevalence rate of mental disorders in the general population was 10-15% and between 20-30% of persons seeking outpatients' services in the health facilities in Kenya. Between 10-15% of the population suffered from mental disorders and vast majority suffered from depression.
2. Psychiatric inpatient services were offered at three settings, national referral, county health facilities and private sector health facilities. The total bed capacity for mental healthcare in Kenya was 1200 which is way below the expected ratio of 40-50 psychiatric beds per 100,000 population.
3. At the national referral setting, Mathari Hospital (700 bed capacity) provided specialized mental health care services as well as training, teaching and research in Psychiatry and Mental health. Moi Teaching and Referral hospital had a mental health unit (70 bed capacity) offering specialized mental healthcare services and training. At the county setting, the following 14 hospitals offered specialized mental healthcare services in 20-25 bed capacity psychiatric units:
 - i. Nyeri General Hospital – Nyeri County
 - ii. Nakuru General Hospital – Nakuru County
 - iii. Kisumu Hospital – Kisumu County
 - iv. Kakamega General Hospital – Kakamega County
 - v. Embu General Hospital – Embu County
 - vi. Port Reitz Hospital – Mombasa County
 - vii. Machakos Hospital – Machakos County
 - viii. Gilgil Hospital – Nakuru County
 - ix. Murang'a County Hospital – Murang'a County
 - x. Meru County Hospital – Meru County
 - xi. Isiolo Hospital – Isiolo County
 - xii. Siaya Hospital – Siaya County
 - xiii. Kisii County Hospital – Kisii County
 - xiv. Kerugoya Hospital – Kirinyaga County

In addition, private sector health facilities had a combined specialized psychiatric bed capacity of 100. Outpatient mental health services were offered in the above named hospitals as well as in other general hospitals either within the general outpatient clinic or in the general medical wards. There were no psychiatric beds for community, residential and day care facilities.

4. Mathari NTRH was the only referral facility in the country for inpatient Psychiatric forensic services. The Maximum Security Union had a bed capacity of 250 with an average occupancy rate of 200%. Limited outpatient forensic psychiatric services exist in the Counties (Embu, Nyeri, Murang'a, Nakuru, Mombasa, Kisumu, Meru, Machakos, Kisii).
5. The MNT & RH was managed as a unit at the Ministry of Health and allocations to the hospital were as per the district hospitals but the hospital did receive a higher allocation given its status as a national hospital. The Ministry of Public service was also in the process of filling gaps in Human resources at the Hospital. In addition, Safaricom through Kenya @ 50 had renovated some wards .
6. The relationship between the Judiciary and the Mathari Hospital was non consultative, characterized by poor collaboration and cooperation. The referrals were done through Court orders for psychiatric evaluation or committals for admission of mentally ill patients. The hospital was obligated to obey Court orders to avoid liability for contempt of court. The referral mechanism has no consideration for the available bed capacity and occupancy and requisite resources to manage the mentally ill offenders for both outpatient and inpatient psychiatric forensic services.
7. The Judiciary and the Police were responsible for management of cases involving mentally ill persons and by extension any delays in conclusion of the cases. However, Mathari hospital also took care of mentally ill offenders with chronic severe disease or suffering from Neuro-developmental and Neuro-cognitive disorders. Due to the nature of the psychopathology, such patients may not have the capability to take a plea. This often led to long stay in hospital for such patients. Cases of this nature were better addressed through consideration for leniency by the Directorate of Prosecution or reviewed by the Advisory Board for consideration of mercy by the Power of Mercy Board. In some cases, the Police took long to collect persons treated and ready to take pleas in Court
8. The Power of Mercy Board was a creation of the Constitution of Kenya 2010. The Advisory Board was in existence prior to the Power of Mercy Board. The Advisory Board's role was to consider cases and recommend to the Power of Mercy Board for recommendation for Presidential pardon. There were legislative and procedural gaps in mechanisms to confer mercy to mentally ill offenders in the criminal justice system.
9. The mandate to convene the Advisory Board meeting lay with the state law office (Chairman) and the Kenya Prison Service (Secretary). The last meeting of the Advisory Board was held in 2012. This meant that many patients that qualified for review of their cases and need for treatment still remain in the facility.
10. The prison medical service only refers persons within correctional and remand institutions for psychiatric services to Mathari hospital MSU since the Prisons Medical Service was chiefly composed of clinics and dispensaries and had no inpatient services, neither did they provide either general or forensic psychiatric services. The Probation

Service assisted in social investigation and community linkages towards rehabilitation, repatriation and reintegration of mentally ill offenders.

11. Persons in police custody or under investigations, accused of capital offence were referred by the Police Service for psychiatric evaluation on capability to take plea. The police service also referred persons who are mentally ill, found in a public place for emergency treatment as provided for in the Mental Health Act. There was a delay in collection of patients discharged to the originator (Police).
12. Part of the security arrangements in the MSU was high barrier walls around the facility. The other key arrangement was that the Kenya Prisons Services had deployed 25 armed warders to the facility on 24 hour duty. In addition, the hospital had engaged a private security firm to man the gates. However these security measures are inadequate. The high barrier walls were dilapidated and weak and the warders and private security guards were not enough. Additional measures proposed for improving security included the following:
 - CCTV camera
 - Remotely controlled door management
 - Technologically improved toilet system

The hospital was solely funded through the budget of the Ministry of Health. In the last three financial years, the funding (excluding personnel emoluments) has been as follows:

F/Y	Recurrent	Development
2013/14	202,000,000.00	0
2014/15	128,971,200.00	31,500,000.00
2015/16	127,436,960.00	31,500,000.00

The funding from the Ministry was inadequate and the other agencies that referred patients to the facility did not fund the hospital. Moreover their patients did not pay user fees.

13. Other than the annual allocation from the Ministry of Health, the Hospital did not receive financial support in respect of patients abandoned at the hospital due the stigma associated with mental illness. It was estimated that at least 10% of the Kenyan population suffered a form of mental disorder and that mental patients were not economically productive and actually tied down the productive capacity of caretakers.
14. Going forward mental health should be made one of the initial milestones in the proposed Universal Health Coverage scheme. This would be combined with development of the capacity for diagnosis and management of mental conditions at all levels of care preferably using existing human resources.
15. The hospital was gazetted as a National Teaching and Referral Hospital in 2013. The objective of the gazzement was to recognize the hospital's operational status and to distinguish it from County hospitals. The Ministry planned to give the Hospital financial autonomy by translating the annual allocation into a grant to be utilized by hospital management under supervision of the hospital management committee. However, granting of full autonomy to the institution would require wide stakeholder consultation and re-establishment of the hospital under an Act of Parliament.
16. Following the intervention of the committee, the Power of Mercy board had already communicated to the Ministry and made a commitment to review the cases at Mathare on 26th April 2016. The Ministry had also made a request to treasury to increase funding to the Hospital and that part of the short term measures undertaken by the Ministry included

- ensuring that the Hospital had a proper system of financial management. In this regard, the Ministry had posted an accountant to the Hospital to help streamline the Hospital's financial operations and provided an Ambulance to the Hospital to deal with referrals.
17. The Ministry had already developed a Mental Health Policy which was due to be launched this month.

3.3 Evidence from the State Department of Correctional Services

Mr. Richard Kirundi, Principal Secretary, State Department of Correctional Services appeared before the Committee on 31st March, 2016 and informed it as follows:-

3.3.1 The Role of Probation and Aftercare Services

The committee was informed as follows in Relation to Mental Patients (offenders):-

1. The probation Liaison office was housed within the hospitals and the doctors were the source of referrals for the cases probation dealt with. The probation officers provided social inquiry reports for the consumption of doctors and collaborated in any other relevant way for better service delivery. Probation Service used to provide social inquiry reports for special category Psychiatric offenders to the then advisory board. The Boards functions had since been taken over by the Power of Mercy Advisory Committee (POMAC).
2. In 2007, Probation Department posted two probation officers to the Hospital and in 2008, the department and the Mathari Hospital administration signed an MOU to build an office at the Hospital to enhance service delivery which became operational in July 2010. The department's mandate had since expanded to include the preparation of Capability and Leniency reports for offenders remanded at the Maximum Security Unit. The reports were consumed by the Psychiatric Consultants and the Director of Public Prosecutions (DPP);
3. The following social inquiry reports were prepared and submitted :-
 - i. Special Category Criminal Offenders (SCCO's) undergo psychiatric management, occupational therapy and life skills empowerment and upon release they are supervised by probation officers for a period of two years to ensure reintegration and resettlement into the Community. Reports arising include
 - Reports for offenders found guilty but insane by the trial courts under section 166 of the criminal procedure code and detained under Presidential pleasure
 - Offenders due for release on a special license after a three year incarceration at Mathari National Teaching & Referral Hospital
 - ii. Capability reports provides doctors with the history of mental illness of the patients, their social background for informed treatment and include reports for remandees who during court proceedings exhibit symptoms of mental disorders and are thus referred for psychiatric assessment if need be, for treatment
 - iii. Leniency
These are reports for remandees who due to the severity of their mental disorder or mental retardation cannot respond to treatment and thus incapable of proceeding with

their court cases. The reports are attached to doctors information and forwarded to the DPP for possible consideration of discontinuation of their cases

iv. Civil Patients

Civil patients who cannot be contained in the general wards for various reasons such as aggression or family rejection are committed to the Maximum security Unit. Doctors request for reports that may give them insight into the source of the aggression or rejection for better interventions

4. The Special Category Criminal Offenders (SCCO's) were the only category of offenders that the probation department was mandated to supervise, reintegrate and resettle in the community. Current statistics showed there are 58 SCCO's, 42 males and 16 females. Out of the 42 males, 14 were serving time in Kamiti Prison for disciplinary issues while 29 of the offenders both male and female were ready for release and resettlement plans were ready. 6 of the patients were awaiting release after their cases were approved by POMAC during the last meeting held on 27th July 2012;
5. The probation department did not have any direct relationship with Prisons Medical Services and the prisons officers based at the Mathari Maximum Security Unit basically offered security Services similar to prison environment;

3.3.2 The Role of Kenya Prison Service

The Committee was informed as follows in relation to Mental Patients (offenders):-

1. The Kenya Prisons service was governed by the Prisons Act Chapter 90 (Revised 2012) of the laws of Kenya. With regard to admission, treatment and discharge of mentally disordered offenders, part IV, section 38 of the Act provided guidelines specific to this group of offenders;
2. Kenya Prisons Services referred mentally disordered offenders for treatment in accordance with the Act and there were specific removal instruments to the Mathari National Teaching and referral Hospital. Once the patients were certified fit to plead after recovery, a capability to make a defence was filled under Criminal Procedure code Sec 163(1) by the treating psychiatrist at the Hospital;
3. Special Category offenders convicted of capital offences were committed to Mathari National Teaching & Referral Hospital under Presidential pleasure by the High Court of Kenya. These offenders were on lifelong treatment and their confinement in the Hospital was determined by their clinical response to treatment and probation reports on their social audit and suitability to be accepted back into their former homes. Reports were compiled and are discussed and deliberated now under the POMAC which recommends their freedom to the President who then authorizes their release;
4. Remanded mentally disordered offenders were transported for psychiatric clinics by Kenya Prisons Service every Monday and Thursday when attending Psychiatrists recommend outpatient treatment. The patients then reside in their respective areas in prisons.
5. When a committal warrant was issued by the courts based on psychiatric reports by the attending psychiatrists at Mathari National Teaching & Referral Hospital, the patients were admitted for inpatient care until certified fit to plead. They were then referred back to the remand prison to continue with their cases in court.

6. The Kenya Prisons Service provided security of the Maximum Security Unit with a deployment of 25 prison Wardens at the hospital were partly housed at the facility and were under the Command of the regional Commander (RC) Nairobi operating on a 24 Hour basis and worked in shifts. They also escorted patients to other hospitals after referral for further management of medical or surgical complications that could not be managed at the Mathari National Teaching & Referral Hospital. Under the Prisons Act Cap 90, the period during which the prisoner has been detained is reckoned as part of his term of imprisonment;
7. Under section 42 of the Prisons Act Cap 90, if any prisoner escaped during such times as he is in any hospital, mental hospital or leper settlement, no prison officer shall be held answerable therefore unless such a prisoner had been in the personal custody of such officer, and no medical officer, person in charge of a leper settlement or other person shall be held answerable therefore unless it is shown that he has helped such prisoner to escape or has willfully neglected to take reasonable precautions to prevent his escape;
8. According to Part XIII, section 41 of the Mental Health Act Cap 248 of the laws of Kenya, a person in charge of a mental hospital may refuse to receive any person into the hospital if there is insufficient or unsuitable accommodation available therein.
9. The Kenya Prisons Service had begun pursuing NHIF cards for inmates but the Challenge was getting the funding that NHIF required in order to cushion patients.
10. Kenya Prisons Service pays KNH and the Moi Teaching and Referral Hospital Ksh. 2,500 per patient per day for patients referred to the hospitals upon receiving requests from the two hospitals to subsidize the cost.
11. Challenges in the management of mentally disordered offenders in prison included:-
 - a) the capacity and the infrastructure to manage mentally disordered offenders hence wholly reliant on the Mathari National Teaching & Referral Hospital and in the Counties the County Referral Hospitals.
 - b) There was an acute shortage of mental health workers within Kenya Prisons Service with only one Psychiatrist posted in December 2015 and one psychiatry nurse.
 - c) The Kenya Prisons Service did not have sufficient funding to cater for inpatient Psychiatric care of mentally disordered offenders.
 - d) Transport at times posed a challenge in moving patients to and from Hospital
 - e) There was a shortage of wardens to provide the necessary warden patient ration of 2:1 in order to provide adequate security
 - f) Protracted cases in court increased patients stay in the Hospitals
 - g) The Power of Mercy Committee failure to hold more frequent deliberations
 - h) There was no drug rehabilitation section in the Maximum Security Unit at Mathari National Teaching & Referral Hospital
12. Subsequently, the Kenya Prisons Service recommended that:-
 - i. Psychiatric Units be established in the Main Prisons in the Country (Nairobi, Kakamega, Kisumu, Naivasha and Nyeri);
 - ii. More mental Health Workers be recruited for the Prisons Service (psychiatrists, Psychiatric nurses, Psychiatric Social Workers, Counsellors, Clinical Officers trained in Psychiatry, etc.;

- iii. Consider registering inmates with the National Hospital Insurance Fund as this would reduce treatment costs and allow the inmates to benefit from health insurance upon discharge from prison;
- iv. Increase funding to cater for inpatient psychiatric treatment of mentally disordered offenders and
- v. Upgrade the Maximum Security Unit to a Kenya Prisons service facility under the Regional Commander in Nairobi

3.4 Evidence from the State Department of Interior

The Principal Secretary, State Department of Interior in a written submission to the vide a letter dated 15th April 2015 informed the Committee as follows:

1. Referral Mechanism for patients under police Custody
Mathari NT& RH Maximum Security Unit is situated within Nairobi County. From time to time, persons under police custody are referred to the facility and this is done by filling a form number five (5) which is an application for emergency admission for suspects who are violent and are held in custody at a police station. Cases referred from hospital to prison custody;
2. Provision of security to the hospital and its staff
Security at the facility is provided by Muthaiga Police station. At any given moment, four police officers are deployed to provide security to the facility. However, the officer in charge of station deploys additional personnel depending on the prevailing circumstances, especially when some of the patients become violent.
3. The facility also has an annex of Kamiti Maximum Security Prison and the Prison Service has deployed forty (40) prison warders with a chief inspector as in charge. The inmates are normally undergoing mental assessments and treatment while serving their sentence.

3.4 Evidence from the Power of Mercy Advisory Committee

Mr. Michael A. Kagika, Secretary, Power of Mercy Advisory appeared before the Committee on 31st March, 2016 and informed it as follows:

1. The Constitution of Kenya and the Power of Mercy Act provided that any person may petition the President through the Committee to exercise the power of mercy and grant any relief specified in Article 133(1) of the Constitution for the benefit of a convicted criminal offender;
2. Whereas convicted offenders of sane mind were committed to the mainstream correctional facilities, convicted offenders who were found guilty of the act or omission charged but were insane when they did the act or made the omission are detained, on the orders of the President, in a mental Hospital, prison or other suitable place of safe custody. The practice has been to commit this category of offenders to the Mathari Special Maximum Unit of Mathari National Teaching & Referral Hospital where they are detained at the pleasure of the President. In common parlance, this category is referred to as special category patients;
3. The police also detained remandees with mental disorders at the Hospital as does the courts with pre-trial remandees of similar disposition. Convicted offenders who suffer

- mental illness while serving their term are also removed from respective prisons to receive treatment at the Mathari National Teaching & Referral Hospital as patients;
4. The two categories that fell under the meaning of the Power of Mercy Act are the special category and the Convicted category patients. The Committee works in close consultation with the Medical Superintendent at the Mathari National Teaching and Referral Hospital for the consideration of recommending to the President the discharge or further handling of persons detained at the hospital while paying regard to the requirements of the power of mercy legal regime;
 5. In 2016 work plan, the Chairman was scheduled to lead the Committee on a visit to the Mathari Mental Hospital Maximum unit on 26th April, 2016 to review cases that would be presented by the Medical Superintendent;
 6. It was observed that the Criminal Procedure Code has elaborately provided the procedures in cases of lunacy or other incapacity of an accused person in sections 162 to 166. There was therefore need for closer stakeholder collaboration to draw partnership guidelines that will avail more expedient determination of matters relating to offenders with mental disorders. This would stretch across the whole spectrum of the justice system from the stages of arrest, investigations, through trial, sentencing, corrective rehabilitation and eventual release, reintegration and resettlement into society;
 7. It was paramount that adequate resources were allocated to the Mathari Mental Hospital and by extension all other Hospitals that offer care to mental patients. The dilapidated physical infrastructure of the Hospital was not conducive for the care and treatment of patients, nor the staff working therein. In the case of special category offenders, once they are booked into the Mathari National Teaching & Referral Hospital they translate into patients whom the hospital should cater for holistically including offering security. This would call for the increase of resource allocation;
 8. The hospitals image would receive a big boost if the institution was formally upgraded in to a National Teaching and Referral Hospital to make it the premier mental treatment facility in the Country.
 9. The POMAC had for the first time been sufficiently funded to cover the core mandate of the Committee and the board sits regularly.

3.5 Evidence from the Judiciary

Mr. Daniel Ogembo, Chief Magistrate representing the Chief Registrar appeared before the Committee on 31st March, 2016 and informed it as follows:

1. All accused persons in murder trials must be subjected to a psychiatric exam to assess their suitability to stand trial and a report made to the courts;
2. Reports are received in a maximum of two days and the accused stand trial;
3. Upon suspicion that the accused is not fit to plead, the patients remain in Mathare National Teaching and Referral Hospital at the pleasure of the President. It is upon the Director of Public Prosecution to recommend or apply for withdrawal of such cases.
4. The Judiciary had launched various court users committees on 22nd March 2016 which if Mathare Hospital attends would assist in solving issues of accused persons overstaying in the facility.

4.0 COMMITTEE OBSERVATIONS

The Committee having considered the petitioners' prayers and their submissions, observed the following; that:-

1. Mathare National Teaching and Referral Hospital which is the only national psychiatry facility, had faced many challenges and was in a dilapidated state due to many years of neglect. Mental Health facility was not properly funded leading to its deplorable state;
2. Coupled with financing challenges, Mathare National Teaching and Referral Hospital was facing an acute shortage of staff with one nursing staff taking care of 147 patients in the Maximum Security Unit which was way below the required international standards notwithstanding the security threat that the nursing officer was exposed to.
3. Mathare National Teaching and Referral Hospital was serving patients referred to it by the judiciary and police service for mental assessment for suitability to take plea, however, such patients do not pay the facility neither do the referring agencies make any compensation to the hospital for the expenses incurred by such patients.
4. The Maximum Security Unit of the hospital where the patients referred from the police custody and judiciary was overcrowded and was faced with security challenges. In addition, patients in this unit had overstayed in the facility as their discharge required court orders.
5. There was no proper communication between the Ministry of Health and the other government agencies that require the services of Mathare Hospital that has resulted into the facility offering its services for free for patients referred from the police custody, judiciary and prisons department.
6. Additionally, the Committee observed that Mathare Hospital was one of the four National Referral Hospitals in the country, however, the Hospital was still managed as a unit in the Ministry of Health headquarters which is unconstitutional. The facility needed to be established through an Act of Parliament as a National Referral Facility.
7. As Training institutions, Mathare offered its training facilities to other hospital workers without commensurate compensation

5.0 COMMITTEE RECOMMENDATIONS

As to the Prayer that the Committee recommends establishment of more mental healthcare facilities in the Country, the Committee Recommends:

That the Ministry of Health should in line with the Mental Health Policy ensure that both the national and county governments invest in health infrastructure to ensure a progressive increase in access to mental health services.

As to the Prayer that the Committee ensures provision of adequate budgetary allocation to enable smooth running of medical facilities, the Committee recommends:

1. The Ministry of Health should initiate and fastrack the process of giving Mathare National Teaching and Referral Hospital autonomy by anchoring its gazzeted status as a National Teaching and Referral Hospital in law.
2. The Ministry of Health should fund the Mathare National Teaching and Referral Hospital directly as is the case with other National Teaching and Referral Hospitals since it is already gazzeted as a National teaching and Referral Hospital.
3. The Ministry should in the short term increase the financial allocation to the Hospital to cater for more urgent needs like ensuring an adequate supply of new generation psychotropic drugs and rehabilitation of existing facilities.
4. The Ministry of Health should prioritise infrastructural development at the facility in the 2016/2017 financial Year.

As to the prayer that the Committee makes any other order or direction that it deems fit in the Circumstances of the prayers sought, the Committee recommends the following:-

1. The Mathare National Teaching and Referral Hospital should review its relationship with other stakeholders benefiting from the Services offered by the Hospital that is the Judiciary, Kenya Police Service and the Kenya Prisons Service in order to ensure that the Hospital is adequately compensated for such services.
2. The Mathare National Teaching and Referral Hospital should reinvent its training programme and sign memorandums of understanding with Universities and other training institutions whose students train at the facility, to ensure that commensurate benefit is received for the services rendered as way of funding the facility.
3. The Ministry should ensure that adequate medical staff is deployed to the facility by the start of FY 2016/17.
4. Mathare National Teaching and Referral Hospital should work closely with Power of Mercy Advisory Committee to provide quarterly report on reformed patients who needed to be considered for Presidential pardon to decongest the facility.
5. The Ministry of Health should work together with the Ministry of Labour and Social Welfare, to ensure that the half way homes are set up for the patients who have been abandoned due to stigma associated with mental illness, where such patients could go through occupational therapy to make them useful. This would decongest the hospital.
6. The Ministry of Health reports back to the Committee on the progress of implementing the Committee recommendations within 90days.

SIGNED:



DATE:.....

19/07/2016

**THE HON. DR. RACHEL NYAMAI, M.P,
CHAIRPERSON, DEPARTMENTAL COMMITTEE ON HEALTH**

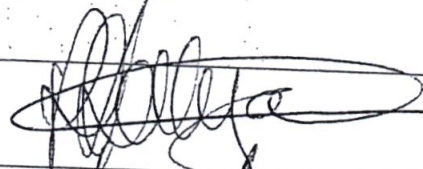
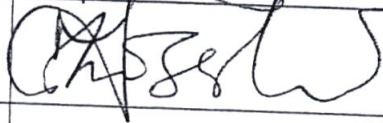
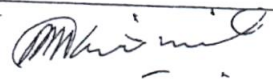

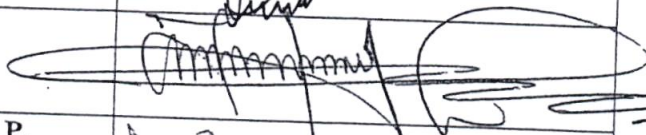
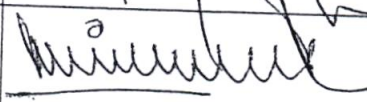
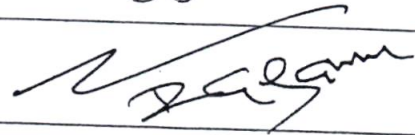
ATTENDANCE REGISTER


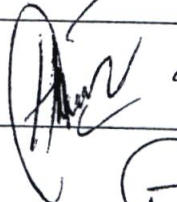

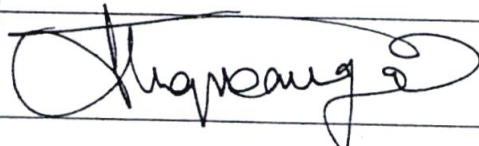



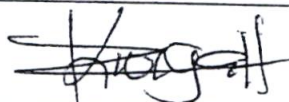
AGENDA:

CONSIDERATION AND ADOPTION OF PENDING REPORTS

DATE: 9th June 2016

VENUE: Small dining

	HON. MEMBER	SIGNATURE
1.	The Hon. Dr. Rachel Nyamai, M.P. Chairperson	
2.	The Hon. Dr. Robert Pukose, M.P. Vice Chairperson	
3.	The Hon. Alfred Agoi, M.P.	Absent
4.	The Hon. Alfred Sambu, M.P.	Absent
5.	The Hon. David Karithi, M.P.	
6.	The Hon. Dr. Dahir D. Mohamed, M.P.	
7.	The Hon. Jared Opiyo, M.P.	
8.	The Hon. Dr. Enoch Kibunguchy, M.P. Channy.	
9.	The Hon. Dr. James Murgor, M.P.	Apology
10.	The Hon. Dr. James Nyikal, M.P.	Apology
11.	The Hon. Dr. James O. Gesami, M.P.	
12.	The Hon. Dr. Naomi Shaban, M.P.	Daban
13.	The Hon. Dr. Patrick Musimba, MP	Absent
14.	The Hon. Dr. Stephen Wachira, M.P.	

HON. MEMBER	SIGNATURE
15. The Hon. Dr. Susan Musyoka, M.P.	
16. The Hon. Fred Outa, M.P.	Absent
17. The Hon. Hassan Aden Osman, M.P.	
18. The Hon. James Gakuya, M.P.	
19. The Hon. John Nyaga Muchiri, M.P., HSC	Absent
20. The Hon. Joseph O. Magwanga, M.P.	
21. The Hon. Kamande Mwangi, M.P.	Absent
22. The Hon. Leonard Sang, M.P.	Absent
23. The Hon. Michael Onyura, M.P.	
24. The Hon. Robert Mbui, M.P.	Absent
25. The Hon. Mwinga Gunga, M.P.	Apologies
26. The Hon. Paul Koinange, M.P.	
27. The Hon. Raphael Milkau Otaalo, M.P.	
28. The Hon. Stephen M. Mule, MP	Absent
29. The Hon. Zipporah Jesang, M.P.	

MINUTES OF THE 41ST SITTING OF THE DEPARTMENTAL COMMITTEE ON HEALTH HELD ON THURSDAY 9TH JUNE, 2016, IN THE SMALL DINING ROOM, MAIN PARLIAMENT BUILDINGS, AT 10.00 AM.

PRESENT

1. The Hon. Dr. Enoch Kibunguchy, M.P.- Chairing
2. The Hon. Dr. Racheal Nyamai, M.P. (Chairperson)
3. The Hon. Dr. Robert Pukose, M.P. (Vice Chairperson)
4. The Hon. David Karithi, M.P.
5. The Hon. Dr. Dahir D. Mohamed, M.P.
6. The Hon. Hassan Aden Osman, M.P.
7. The Hon. Joseph Oyugi Magwanga, M.P.
8. The Hon. Paul Koinange, M.P.
9. The Hon. Jared Opiyo, M.P.
10. The Hon. Dr. James O. Gesami, M.P.
11. The Hon. Dr. Naomi Shaban, M.P.
12. The Hon. Dr. Susan Musyoka, M.P.
13. The Hon. James Gakuya, M.P.
14. The Hon. Michael Onyura, M.P.
15. The Hon. Raphael Milkau Otaalo, M.P.
16. The Hon. Zipporah Jesang, M.P.

ABSENT WITH APOLOGY

1. The Hon. Alfred Agoi, M.P.
2. The Hon. John Nyaga Muchiri, M.P.
3. The Hon. Dr. James Nyikal, M.P.
4. The Hon. Dr. James Murgor, M.P.
5. The Hon. Dr. Patrick Musimba, M.P.
6. The Hon. Alfred Sambu, M.P.
7. The Hon. Fred Outa, M.P.
8. The Hon. Robert Mbui, M.P.
9. The Hon. Stephen M. Mule, M.P.
10. The Hon. Dr. Stephen Wachira, M.P.
11. The Hon. Leonard Sang, M.P.
12. The Hon. Mwinga Gunga, M.P.
13. The Hon. Kamande Mwangi, M.P.

IN ATTENDANCE

National Assembly Secretariat

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

MIN.NO. DCH 165/2016:

PRELIMINARIES.

The Chairperson called the meeting to order at 10.25 am and a prayer was said by Hon. Dr. Susan Musyoka, M.P.

MIN.NO.DCH 166/2016:

CONFIRMATION OF MINUTES

Minutes of the 28th Sitting held on Tuesday 26th April, 2016 at 10.00 a.m. were confirmed as the true record of the Committee's deliberations after being proposed and seconded by Hon. James Gakuya, M.P. and Hon. Michael Onyura, M.P. respectively.

Minutes of the 29th Sitting held on Thursday 28th April, 2016 at 10.00 a.m. were confirmed as the true record of the Committee's deliberations after being proposed and seconded by Hon. Michael Onyura, M.P. and Hon. Zipporah Jesang, M.P. respectively.

Minutes of the 30th Sitting held on Tuesday 3rd May, 2016 at 10.00 a.m. were confirmed as the true record of the Committee's deliberations after being proposed and seconded by Hon. Zipporah Jesang, M.P. and Hon. Dr. Robert Pukose, M.P. respectively.

Minutes of the 31st Sitting held on Thursday 5th May, 2016 at 10.00 a.m. were confirmed as the true record of the Committee's deliberations after being proposed and seconded by Hon. Michael Onyura, M.P. and Hon. Raphael Milkau Otaalo, M.P. respectively.

Minutes of the 32nd Sitting held on Tuesday 10th May, 2016 at 10.00 a.m. were confirmed as the true record of the Committee's deliberations after being proposed and seconded by Hon. Raphael Milkau Otaalo, M.P. and Hon. Michael Onyura, M.P. respectively.

MIN.NO.DCH 167/2016:

MATTERS ARISING

The following matters arose from the previous Minutes:

1. Under **MIN.NO.DCH 118/2016:**

1. In regards to concerns raised by two senior Doctors, Prof Richard Muga and Prof George Magoha regarding the Management of County Referral Hospitals, Members noted that before its disbandment, the Constitutional Implementation Commission had advised that it was not possible to have a Commission on Health established without a constitutional referendum. Members further noted that there was need to come up with a way, either through pushing for a constitutional amendment to address either the Human Resource Aspect or the entire devolution of Health in order to address the issues facing the sector.

It was resolved that the Hon.Dr. Enoch Kibunguchy, M.P would bring an initiative to the committee aimed at having some health functions revert back to the National Government.

2. Under **MIN.NO.DCH 124/2016:**

The Committee resolved that two teams be formed to conduct inspection visits on the Managed Equipment Service to Kakamega, Kisumu, Malava, Busia, Moi Teaching and Referral Hospital and Nakuru, Naivasha, Nyahururu respectively before the end of the 2015/2016 financial year.

The Committee further resolved that an inspection visit to Coast General Hospital be scheduled for Friday 17th June 2016 alongside the scheduled Committee retreat in Mombasa between 16th and 19th June 2016 to consider reports and Legislative proposals.

The report arising out of the inspection to form the basis of requesting for an audit of the MES project.

MIN.NO.DCH 168/2016:

**CONSIDERATION AND ADOPTION
OF PENDING REPORTS.**

The Committee considered the following report:

**i. REPORT ON THE CONSIDERATION OF A PETITION REGARDING
ALLEGED MISMANAGEMENT AND MISAPPROPRIATION OF FUNDS
AT THE KENYA MEDICAL RESEARCH INSTITUTE**

The report was adopted after being proposed by the Hon. Dr. Susan Musyoka, M.P and Seconded by the Hon. Dr. Enoch Kibunguchy, M.P.

**ii. REPORT ON THE CONSIDERATION OF THE PETITION BY MR.
ELIJAH KINGORI GITHIMA REGARDING THE DEPLORABLE STATE OF
MENTAL HEALTH CARE FACILITIES IN KENYA**

The report was adopted after being proposed by the Hon.Dr. Naomi Shaban, M.P and seconded by the Hon. Paul Koinange, M.P.

MIN.NO. DCH 169/2016:

ADJOURNMENT

There being no other business the meeting was adjourned at 12.30 pm.

SIGNED: 

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

DATE: 28/06/2016

MINUTES OF THE 23RD SITTING OF THE DEPARTMENTAL COMMITTEE ON HEALTH HELD ON THURSDAY, 7TH APRIL, 2016, IN THE 4^H FLOOR COMMITTEE ROOM, CONTINENTAL HOUSE, PARLIAMENT BUILDINGS, AT 10.00 AM.

PRESENT

1. The Hon. Dr. Racheal Nyamai, M.P. (Chairperson)
2. The Hon. Dr. Robert Pukose, M.P. (Vice Chairperson)
3. The Hon. Dr. James O. Gesami, M.P.
4. The Hon. Christopher Nakuleu, M.P.
5. The Hon. Dr. Naomi Shaban, M.P.
6. The Hon. John Nyaga Muchiri, M.P.
7. The Hon. Michael Onyura, M.P.
8. The Hon. Raphael Milkau Otaalo, M.P.
9. The Hon. Dr. Dahir D. Mohamed, M.P.

ABSENT WITH APOLOGY

1. The Hon. David Karithi, M.P.
2. The Hon. Dr. Enoch Kibunguchy, M.P.
3. The Hon. Dr. Stephen Wachira, M.P.
4. The Hon. Dr. Susan Musyoka, M.P.
5. The Hon. Fred Outa, M.P.
6. The Hon. Hassan Aden Osman, M.P.
7. The Hon. James Gakuya, M.P.
8. The Hon. Joseph O. Magwanga, M.P.
9. The Hon. Kamande Mwangi, M.P.
10. The Hon. Alfred Agoi, M.P.
11. The Hon. Dr. Eseli Simiyu, M.P.
12. The Hon. Dr. James Murgor, M.P.
13. The Hon. Mwinga Gunga, M.P.
14. The Hon. Paul Koinange, M.P.
15. The Hon. Dr. James Nyikal, M.P.
16. The Hon. Zipporah Jesang, M.P.
17. The Hon. Leonard Sang, M.P.
18. The Hon. Stephen M. Mule, M.P.
19. The Hon. Mwahima Masoud, M.P.
20. The Hon. Dr. Patrick Musimba, M.P.

IN ATTENDANCE

MINISTRY OF HEALTH

- | | |
|--------------------------|------------------------|
| 1. Dr. Nicholas Muraguri | - Principal Secretary. |
| 2. Peter Messo | - Finance Officer |
| 3. James Ng'ethe | - Finance Officer |
| 4. Simon Njuguna Kahonge | - Finance Officer |
| 5. I.M Abdi | - Undersecretary |

- 6. Saleh A. Bardad - Parliamentary Liason Officer
- 7. Dr. Julius Ogato - Medical Superintendent Mathare National Teaching and Referral Hospital

NATIONAL ASSEMBLY SECRETARIAT

- 1. Ms. Esther Nginyo - Third Clerk Assistant.
- 2. Ms. Ruth Mwhiki - Third Clerk Assistant.
- 3. Mr. Hassan Abdi - Fiscal Analyst.
- 4. Ms. Noelle Chelagat - Media Relations Officer III.

MIN.NO. DCH 93 /2016: PRELIMINARIES.

The Chairperson called the meeting to order at 10.30 am and a word of prayer was said by Hon. Dr. Robert Pukose, M.P. The Chairperson thereafter welcomed all those present to the meeting and asked them to introduce themselves.

MIN.NO.DCH 94/2016: MEETING WITH THE PRINCIPAL SECRETARY, MINISTRY OF HEALTH ON THE PETITION BY MR. ELIJAH KINGORI GITHIMA REGARDING THE DEPLORABLE STATE OF THE MENTAL HEALTH CARE FACILITIES IN KENYA AND THE 1ST SUPPLEMENTARY ESTIMATES 2015/2016

The Principal Secretary, Ministry of Health Dr. Nicholas Muraguri made presentations as follows:

1. Presentation on the petition by Mr. Elijah Kingori Githima regarding the deplorable state of the mental health care facilities in Kenya
 - a. Globally, 450 million people alive today suffer from mental disorders. In Kenya research indicates that the prevalence rate of mental disorders in the general population is 10-15% and between 20-30% of persons seeking outpatients' services in the health facilities in Kenya. Between 10-15% of the population suffer from mental disorders and vast majority suffer from depression.
 - b. Psychiatric inpatient services are offered at three settings, national referral, county health facilities and private sector health facilities. The total bed capacity for mental healthcare in Kenya is 1200 which is way below the expected ratio of 40-50 psychiatric beds per 100,000 population.
 - c. At the national referral setting, Mathari Hospital (700 bed capacity) provides specialized mental health care services as well as training, teaching and research in Psychiatry and Mental health. Moi Teaching and Referral hospital has a mental health unit (70 bed capacity) offering specialized mental healthcare services and training. At the county setting, the following 14 hospitals offer specialized mental healthcare services in 20-25 bed capacity psychiatric units:
 - i. Nyeri General Hospital – Nyeri County
 - ii. Nakuru General Hospital – Nakuru County
 - iii. Kisumu Hospital – Kisumu County
 - iv. Kakamega General Hospital – Kakamega County
 - v. Embu General Hospital – Embu County

- vi. Port Reitz Hospital – Mombasa County
- vii. Machakos Hospital – Machakos County
- viii. Gilgil Hospital – Nakuru County
- ix. Murang'a County Hospital – Murang'a County
- x. Meru County Hospital – Meru County
- xi. Isiolo Hospital – Isiolo County
- xii. Siaya Hospital – Siaya County
- xiii. Kisii County Hospital – Kisii County
- xiv. Kerugoya Hospital – Kirinyaga County

In addition, private sector health facilities have a combined specialized psychiatric bed capacity of 100.

Outpatient mental health services are offered in the above named hospitals as well as in other general hospitals either within the general outpatient clinic or in the general medical wards. There are no psychiatric beds for community, residential and day care facilities.

- d. **The relationship between the judiciary and the hospital in particular the referral mechanism of patients to the Maximum Security Unit (MSU) from Courts either for psychiatric evaluation to ascertain their mental status prior to taking a plea in Court or Committal of convicted mentally ill patients to the hospital and the process of referring them back to the Courts**

Mathari NTRH is the only referral facility in the country for inpatient Psychiatric forensic services. The MSU has a bed capacity of 250 with an average occupancy rate of 200%. Limited outpatient forensic psychiatric services exist in the Counties (Embu, Nyeri, Murang'a, Nakuru, Mombasa, Kisumu, Meru, Machakos, Kisii).

The relationship between the Judiciary and the Mathari Hospital is non consultative characterized by poor collaboration and cooperation. The referrals are done through Court orders for psychiatric evaluation or committals for admission of mentally ill patients. The hospital is obligated to obey Court orders to avoid liability for contempt of court. The referral mechanism has no consideration for the available bed capacity and occupancy and requisite resources to manage the mentally ill offenders for both outpatient and inpatient psychiatric forensic services.

- e. **Delays in conclusion of cases for those committed in the unit leading to incurring extra cost by the hospital**

The Judiciary and the Police are responsible for management of cases involving mentally ill persons and by extension any delays in conclusion of the cases. However, Mathari hospital also takes care of mentally ill offenders with chronic severe disease or suffering from Neuro-developmental and Neuro-cognitive disorders. Due to the nature of the psychopathology, such patients may not have the capability to take a plea. This leads to long stay in hospital for such patients. Cases of this nature would be better addressed through consideration for leniency by the Directorate of Prosecution or reviewed by the Advisory Board for consideration of mercy by the Power of Mercy Board. In some cases, the Police take long to collect persons treated and ready to take pleas in Court

- f. **Lack of Advisory Board sitting in the last three years to review offenders which in turn contributed to the long stay in the Hospital by offenders thereby incurring extra cost by the Hospital**

The mandate to convene the Advisory Board meeting lies with the state law office (Chairman) and the Kenya Prison Service (Secretary). The last meeting of the Advisory Board was held in 2012. This means that many patients that qualify for review of their cases and need for treatment still remain in the facility.

- g. **Mechanisms to initiate conferring of mercy to the reformed offenders who have overstayed in the facility through the Power of Mercy Board.**

The Power of Mercy Board is a creation of the Constitution of Kenya 2010. The Advisory Board was in existence prior to the Power of Mercy Board. The Advisory Board considers cases and recommends to the Power of Mercy Board for recommendation for Presidential pardon. There are legislative and procedural gaps in mechanisms to confer mercy to mentally ill offenders in the criminal justice system.

- h. **The relationship between the Prisons services and in particular, Prison medical services and probation services with MSU.**

The Prisons Medical Service is chiefly composed of clinics and dispensaries and has no inpatient services. They do not provide either general or forensic psychiatric services. The prison medical service refers persons within correctional and remand institutions for psychiatric services to Mathari hospital MSU. The Probation Service assists in social investigation and community linkages towards rehabilitation, repatriation and reintegration of mentally ill offenders.

- i. **Referral mechanisms for patients who are in police custody to and from the Hospital.**

Persons in police custody or under investigations, accused of capital offence are referred by the Police Service for psychiatric evaluation on capability to take plea. The police service may also refer persons who are mentally ill found in a public place for emergency treatment as provided for in the Mental Health Act. There is usually a delay in collection of patients discharged to the originator (Police).

- j. **Provision of security to the hospital and its staff considering that patients in the MSU are themselves a security threat.**

Part of the security arrangements in the MSU is high barrier walls around the facility. The other key arrangement is that the Kenya Prisons Services has deployed 5 armed warders to the facility on 24 hour duty. In addition, the hospital has engaged a private security firm to man the gates.

However these security measures are inadequate. The high barrier walls are dilapidated and weak and the warders and private security guards are not enough. Additional measures proposed for improving security include the following:

- CCTV camera
- Remotely controlled door management
- Technologically improved toilet system

- k. **Mechanisms to offer financial support to the facility from Ministry of health and also agencies that refers patients to the hospital**

The hospital is solely funded through the budget of the Ministry of Health. In the last three financial years, the funding (excluding personnel emoluments) has been as follows:

F/Y	Recurrent	Development
2013/14	202,000,000.00	0
2014/15	128,971,200.00	31,500,000.00
2015/16	127,436,960.00	31,500,000.00

The funding from the Ministry is inadequate. The other agencies that refer patients to the facility do not fund the hospital. Moreover their patients do not pay user fees.

- l. Financial support to the hospital and mechanisms to resolve financial problems faced by the hospital as result of patients being abandoned at the hospital due the stigma associated with mental illness**

Other than the annual allocation from the Ministry of Health, the Hospital does not receive financial support in respect of patients abandoned at the hospital due the stigma associated with mental illness.

It is estimated that at least 10% of the Kenyan population suffers a form of mental disorder. It is noted that mental patients are not economically productive and actually tie down the productive capacity of caretakers.

Going forward mental health should be made one of the initial milestones in the proposed Universal Health Coverage scheme. This should be combined with development of the capacity for diagnosis and management of mental conditions at all levels of care preferably using existing human resources.

- m. The status of gazetting the facility as a National Teaching and Referral Hospital with a view of giving it autonomy**

The hospital was gazetted as a National Teaching and Referral Hospital in 2013. The objective of the gazetting was to recognize the hospital's operational status and to distinguish it from County hospitals.

The Ministry plans to give the Hospital financial autonomy by translating the annual allocation into a grant to be utilized by hospital management under supervision of the hospital management committee. However, grant of full autonomy requires wide stakeholder consultation and re-establishment of the hospital under an Act of Parliament.

The Committee was further informed as follows:

- n.** That following the intervention of the committee, the Power of Mercy board had already communicated to the Ministry and made a commitment to review the cases at Mathare on 26th April 2016.
- o.** The Ministry had made a request to treasury to increase funding to the Hospital and that part of the short term measures undertaken by the Ministry included ensuring that the Hospital had a proper system of financial management. In this regard, the Ministry had posted an accountant to the Hospital to help streamline the Hospitals financial operations;
- p.** The Ministry had already provided an Ambulance to the Hospital to deal with referrals

The objective of the Ministry was to develop the Hospital as an autonomous institution and since the hospital had already been gazetted, what was remaining was for the Ministry to re-establish the hospital under an Act of Parliament.

- q. The Ministry had already developed a Mental Health Policy which was due to be launched this month.

Committee Observations and Resolutions

1. The Committee observed that the decision on payments to be made to the Mathare NT& R H by the Prisons Service as well as the decision on the financial benefits accruing to the Hospital from Training institutions benefiting from the Hospital was administrative and the Mathare NT& RH should therefore take up the matter with the Prisons Service and the training institutions.
2. The delay in making the Mathare NT& R H a parastatal through passing of the relevant law despite the Hospital being gazetted as a National Teaching and Referral Hospital in 2013, was denying the Hospital autonomy. The Ministry should therefore fastrack the process of giving Mathare NT & RH autonomy by ensuring that the Mathare National Teaching and Referral Hospital Bill is brought to Parliament.

2. Presentation on the 1st Supplementary Estimates 2015/2016

The Principal Secretary responded to areas of concern as raised by the Committee as follows:

- a. The rationale for the proposed increase in the preventive and promotive health services program by Kshs. 456.2 Million from Kshs. 7.133 Billion to Kshs. 7.589 Billion yet the program is a devolved function.

As per schedule 4 of the Constitution and Executive order No 2 of May 2013, aspects of Preventive and Promotive health that are of strategic importance like HIV/AIDs and T.B mitigation are National functions. Further it is noted that these are donor funded projects that were entered into between the Government of Kenya and the Development partners prior to Devolution.

The increase of **Kshs 456,200,000** is in respect to the following donor funded projects. The respective donors increased the funding as per the respective work plans:

- **Global Funds-Aids (Kshs 178,454,145)**:-The printed estimate for the F.Y 2015/16 was **Kshs 232,642,333** with the increased amount being funds for Global Fund Aids activities to be implemented under the National Aids Control Council. This is in line with the Global Fund new funding model for Kenya (Grant Revenue);
- **Global Fund - Tuberculosis (Kshs. 136,963,227)**:- The printed estimates for the F.Y was **Kshs.137,036,773** with the increased amount is in line with the Global fund new funding model for Kenya and is to meet the expenses of the ongoing T.B National Prevalence survey, Procurement of T.B drugs and Laboratory reagents for T.B diagnostics. The program covers 21,000 cases of T.B countrywide (Grant Revenue);

- Clinical Waste Disposal Project (Kshs. 140,782,628):- The printed estimate for 2015/16 was Kshs 20,000,000 with the increased amount being in respect to the Clinical waste project funded through a concession loan by the Belgium Government (Loan AIA).

The assessment to identify the hospitals that will benefit from this project was done prior to devolution i.e. 2011. The focus was on hospitals with high volume. The project to be implemented between 2014/15 and 2018/19 aims at installing Non burning medical waste digesters/incinerators in the following hospitals across the country:

1. Kenyatta National Hospital (Nairobi County)
2. Nakuru Provincial General Hospital (Nakuru County)
3. Coast Provincial General Hospital (Mombasa County)
4. Nyeri Provincial General Hospital (Nyeri County)
5. Kakamega Provincial General Hospital (Kakamega County)
6. Jaramogi Oginga Odinga Teaching & Referral Hospital (Kisumu)
7. Kisii level 5 Hospital (Kisii County)
8. Embu Provincial General Hospital (Embu County)
9. Moi Teaching & Referral Hospital (Uasin Gishu County)

- b. **The justification for the proposed increase by Kshs. 250 Million from Kshs. 437.203 to Kshs. 250,437.203 under the National Aids Control Program for Specialised Materials and Supplies item**

The increase of the Kshs 250,000,000 under the National Aids and STD Control program is to cater for the procurement of Ready to use therapeutic foods (R.U.T.F) and Ready to Use Supplementary foods (R.U.S.F) under the Nutrition program for people living with HIV/AIDS in the Country. This is to mitigate the gap left by the donor Health Nutrition Initiative (USAID) who previously used to fund this critical intervention. The donor pulled out due to a change in the USAID policy on vertical health programmes.

- c. **The justification for the proposed reduction by Kshs. 284.7 Million from Kshs. 7.968 Billion to Kshs. 7.683 Billion under the Maternal and Child Health Program**
The figure of 7.968 Billion is the total budget for Maternal and Child Health Program including vaccines and reproductive health commodities.

The Reduction of the Kshs 284,700,000 was in line with the Directive of the National Treasury vide Circular No 23/2015 of 17th December 2015 that required Ministries, Departments and Agencies to effect cuts in their Development budget (Austerity measures) to plug the National Budgetary deficit. The Ministry of Health was requested to cut Kshs 500,000,000 from its development vote.

During deliberations with the National Treasury, the Ministry requested exemption from the budgetary cuts in view of the strategic and operational nature of the Ministry. The National Treasury declined the request and affected the cut of Kshs 284,700,000 against the free maternity program whose allocation was Kshs. 4,298,000,000.00. So far the Ministry has disbursed 2,926,000,000.00 in the current financial year.

- d. **The Justification for a provision of Kshs. 20 Million under capital expenditure towards expansion of Ileho Health Centre considering that health centres are a devolved function**

The increase of Kshs 20,000,000 under capital expenditure is for expansion of Ileho Health Centre, Kakamega County. The funds are for construction and equipping of a General ward and Maternity wing at Ileho Health Centre

This is a new project under the Kenya Italy Debt for Development program (K.I.D.D.P). The 10 year multi-sector program began in the 2007/08 financial year and is ending in 2016/17 financial year. The aid agreement was negotiated before devolution and implementation of the program is coordinated by a national steering committee. The projects funded are identified through collaboration between the Ministry and County governments and approved by the national steering committee.

This specific project was approved by the National steering committee. However during the formulation of the Draft estimates of the F.Y 2015/2016, it was erroneously omitted in the donor match list and subsequently the Development estimates of the F.Y 2015/16.

- e. **The justification for increasing funding for radiation protection by Kshs. 6,996 from Kshs. 182,141,100 to Kshs. 182,148,096**

The funding of the Radiation Protection Board remained the same as per the printed estimates of the Financial Year 2015/16. The Ministry's submission to the National Treasury is the figure quoted in the printed estimates (Kshs. 182,141,100).

- f. **Why the Kenya Medical Training Colleges have not been adequately funded and are missing in the current supplementary taking cognizance of the fact that these training institutions will play a major role in the implementation of the Managed Equipment Service Project**

The Kenya Medical Training College prepares its own budget for funding consideration by the National Treasury through the Ministry. For the current supplementary estimates, KMTC submitted two requests for funding as follows:

- (i) Kshs 296,400,000 under the supplementary recurrent estimates to cater for the implementation of phase 2 of the ongoing Collective Bargaining Agreement.
- (ii) Kshs 2,700,000,000 in the Development vote to cater for constructing, furnishing and equipping of a proposed 14 extra colleges.

In addition, the Ministry requested for Kshs 500,000,000 for capacity building under the Managed Equipment Services (MES) Program, part of which was to be used to health personnel at K.M.T.C for purposes of implementation of the MES project

These requests were forwarded to the National Treasury during the Supplementary estimates No 1 of the F.Y 2015/16 but were not granted

- g. **Justification on Kshs 85 Million for basic wages for temporary employees**

The figure captured in the supplementary estimates is Kshs. 58,009,708 and not 85 Million. The budget is to cater for officers out of payroll e.g. drug inspectors whose pay points had erroneously been taken to county governments and county based

officers posted back to Ministry headquarters on speciality needs and those released from County Governments.

Committee Observations:

The Committee Observed as follows:

1. The proposed increase in the preventive and promotive health services program by Ksh. 456.2 Million from Ksh. 7.133 Billion to Ksh. 7.589 Billion, though the program is a devolved function was justifiable for mitigation of HIV/AIDs and T.B which is a National function. It was further noted that these are donor funded projects that were entered into between the Government of Kenya and the Development partners prior to Devolution.
2. The increase of the Kshs 250,000,000 under the National Aids and STD Control program is justified as it is meant to cater for the procurement of Ready to use therapeutic foods (R.U.T.F) and Ready to Use Supplementary foods (R.U.S.F) to cater for the Nutrition program for People living with HIV/AIDs in the Country. This is critical in mitigating the gap left by donors who previously used to fund this critical intervention.
3. Although the reduction of the Kshs 284,700,000 from Ksh 7.968 Billion to Ksh 7.683 Billion was in line with the Directive of the National Treasury requiring Ministries, Departments and Agencies to effect cuts in their Development budget for Austerity measures, the Committee was concerned that this reduction was likely to affect the maternal and child health program in big way.
4. On the provision of Ksh. 20 Million under capital expenditure towards expansion of Ileho Health Centre, the Committee noted that it was an ongoing donor funded project (Debt Swap) under the Kenya Italy Debt for Development program (K.I.D.D.P) for construction and equipping of a General ward and Maternity wing.
5. The Committee was concerned that the Supplementary Estimates for 2015/2016 had not factored in the training aspects through the expansion of Kenya Medical Training Colleges which key for the successful implementation of the Managed Equipment Service Mega project.
6. The allocation for Kshs 58,009,708 was justified as it is meant to cater for the officers out of payroll e.g. drug inspectors whose pay points had been erroneously taken to county Governments and officers posted back to Ministry headquarters on specialty needs.

Committee Recommendations

The Committee made the following recommendations which were proposed and seconded by the Hon. Dr. Robert Pukose, M. P and Hon. Raphael Milkau Otaalo, M.P respectively.

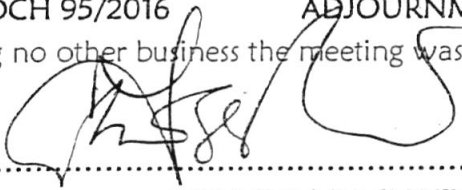
1. That the supplementary estimates for the Ministry be passed without changes.
2. That the Ministry of Health and the National Treasury should prioritize the expansion of the Kenya Medical Training Colleges for the successful implementation of the Managed Equipment Service Program as soon as possible.

MIN.NO. DCH 95/2016

ADJOURNMENT

There being no other business the meeting was adjourned at 12.31 pm.

SIGNED.....



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

DATE:.....

14/4/16

MINUTES OF THE 21ST SITTING OF THE DEPARTMENTAL COMMITTEE ON HEALTH HELD ON THURSDAY 31ST MARCH, 2016, IN THE 4^H FLOOR COMMITTEE ROOM, CONTINENTAL HOUSE, PARLIAMENT BUILDINGS, AT 10.00 AM.

PRESENT

1. The Hon. Dr. Racheal Nyamai, M.P. (Chairperson)
2. The Hon. Dr. Robert Pukose, M.P. (Vice Chairperson)
3. The Hon. David Karithi, M.P.
4. The Hon. Dr. Enoch Kibunguchy, M.P.
5. The Hon. Dr. Stephen Wachira, M.P.
6. The Hon. Dr. Susan Musyoka, M.P.
7. The Hon. Fred Outa, M.P.
8. The Hon. Hassan Aden Osman, M.P.
9. The Hon. James Gakuya, M.P.
10. The Hon. Joseph O. Magwanga, M.P.
11. The Hon. Kamande Mwangi, M.P.
12. The Hon. Michael Onyura, M.P.
13. The Hon. Mwinga Gunga, M.P.
14. The Hon. Paul Koinange, M.P.
15. The Hon. Raphael Milkau Otaalo, M.P.
16. The Hon. Zipporah Jesang, M.P.

ABSENT WITH APOLOGY

1. The Hon. Alfred Agoi, M.P.
2. The Hon. Christopher Nakuleu, M.P.
3. The Hon. Dr. Eseli Simiyu, M.P.
4. The Hon. Dr. Dahir D. Mohamed, M.P.
5. The Hon. Dr. James Murgor, M.P.
6. The Hon. Dr. James Nyikal, M.P.
7. The Hon. Dr. James O. Gesami, M.P.
8. The Hon. Leonard Sang, M.P.
9. The Hon. Dr. Naomi Shaban, M.P.
10. The Hon. John Nyaga Muchiri, M.P.
11. The Hon. Stephen M. Mule, M.P.
12. The Hon. Mwahima Masoud, M.P.
13. The Hon. Dr. Patrick Musimba, M.P.

IN ATTENDANCE

POWER OF MERCY ADVISORY COMMITTEE

1. Mr. Michael A Kagika - Secretary, Power of Mercy Advisory Committee.

JUDICIARY

1. Mr. Daniel Ogembo - Chief Magistrate
2. Mr. Shadrack Orieny - Ag. Chief Executive Officer(Court Administrator)

STATE DEPARTMENT OF CORRECTIONAL SERVICES

1. Mr. Richard Kirundi - Principal Secretary.
2. B. Njogia - Deputy Commissioner General of Prisons
3. Dr. Kisiyuli A. I - Psychiatrist, Prisons
4. Dr. Isiaho Charles - Deputy Director, Prisons
5. Pamela Onyango - Chief Probation Officer, Department of Probation and After Care Services

MATHARE NATIONAL TEACHING AND REFFERAL HOSPITAL

1. Dr. Julius Ogato - Medical Superintendent
2. Dr. Mucheru Wangombe - Deputy Medical Superintendent
3. Dr. Jumba Joseph - Consultant Psychiatrist
4. Mr. Paul Mwove - Nursing Officer

NATIONAL ASSEMBLY SECRETARIAT

1. Ms. Esther Nginyo - Third Clerk Assistant.
2. Ms. Ruth Mwhaki - Third Clerk Assistant.
3. Mr. Dennis Mogare - Third Clerk Assistant.
4. Ms. Noelle Chelagat - Media Relations Officer III.

MIN.NO. DCH 85 /2016: PRELIMINARIES.

The Chairperson called the meeting to order at 10.23 am and a word of prayer was said by Hon. Fred Outa, M.P. The Chairperson thereafter welcomed all those present to the meeting and asked them to introduce themselves.

MIN.NO.DCH 86/2016: CONSULTATIVE MEETING WITH THE POWER OF MERCY ADVISORY COMMITTEE, CHIEF REGITRAR, PS MINISTRY OF HEALTH, PS MISTRY OF INTERIOR AND COORDINATION OF NATIONAL GOVERNMENT, COMMISSIONER GENERAL OF PRISONS, INSPECTOR GENERAL OF POLICE AND THE MEDICAL SUPERIDENDET MATHARE NATIONAL TEACHING AND REFFERAL HOSPITAL OVER THE STATUS OF THE MAXIMUM SECURITY UNIT OF THE MNT & R HOSPITAL

1. Presentation by the Power of Mercy Advisory Committee
Mr. Michael A Kagika, Secretary, Power of Mercy Advisory Committee informed the Committee as follows:
 - a. The Constitution of Kenya and the Power of Mercy Act provide that any person may petition the President through the Committee to exercise the power of mercy

- and grant any relief specified in Article 133(1) of the Constitution for the benefit of a convicted criminal offender;
- b. Whereas convicted offenders of sane mind are committed to the mainstream correctional facilities, convicted offenders who were found guilty of the act or omission charged but were insane when they did the act or made the omission are detained, on the orders of the President, in a mental Hospital, prison or other suitable place of safe custody. The practice has been to commit this category of offenders to the Mathari Special Maximum Unit of Mathari National Teaching & Referral Hospital where they are detained at the pleasure of the President. In common parlance, this category is referred to as special category patients;
 - c. The police also detain remandees with mental disorders at the Hospital as does the courts with pre-trial remandees of similar disposition. Convicted offenders who suffer mental illness while serving their term are also removed from respective prisons to receive treatment at the Mathari National Teaching & Referral Hospital as patients;
 - d. The two categories that fall under the meaning of the Power of Mercy Act are the special category and the Convicted category patients. The Committee works in close consultation with the Medical Superintendent at the Mathari National Teaching and Referral Hospital for the consideration of recommending to the President the discharge or further handling of persons detained at the hospital while paying regard to the requirements of the power of mercy legal regime;
 - e. In 2016 work plan, the Chairman was scheduled to lead the Committee on a visit to the Mathari Mental Hospital Maximum unit on 26th April, 2016 to review cases that would be presented by the Medical Superintendent;
 - f. It was observed that the Criminal Procedure Code has elaborately provided the procedures in cases of lunacy or other incapacity of an accused person in sections 162 to 166. there was therefore need for closer stakeholder collaboration to draw partnership guidelines that will avail more expedient determination of matters relating to offenders with mental disorders. This would stretch across the whole spectrum of the justice system from the stages of arrest, investigations, through trial, sentencing, corrective rehabilitation and eventual release, reintegration and resettlement into society;
 - g. It was paramount that adequate resources are allocated to the Mathari Mental Hospital and by extension all other Hospitals that offer care to mental patients. The dilapidated physical infrastructure of the Hospital was not conducive for the care and treatment of patients, nor the staff working therein. In the case of special category offenders, once they are booked into the Mathari National Teaching & Referral Hospital they translate into patients whom the hospital should cater for holistically including offering security. This would call for the increase of resource allocation;
 - h. The hospitals image would receive a big boost if the institution was formally upgraded in to a National Teaching and Referral Hospital to make it the premier mental treatment facility in the Country.
 - i. The POMAC had for the first time been sufficiently funded to cover the core mandate of the Committee and the board sits regularly.

2. Presentation by the Judiciary

Mr. Daniel Ogembo, Chief Magistrate representing the Chief Registrar informed the Committee that he had been requested on short notice to appear before the Committee to make the presentation and did not therefore have a written submission. He however committed to submit a written submission in one week after the date of the sitting.

The Committee was however informed as follows:

- a. All accused persons in murder trials must be subjected to a psychiatric exam to assess their suitability to stand trial and a report made to the courts;
- b. Reports are received in a maximum of two days and the accused stand trial;
- c. Upon suspicion that the accused is not fit to plead, the patients remain in Mathare National Teaching and Referral Hospital at the pleasure of the President. It is upon the Director of Public Prosecution to recommend or apply for withdrawal of such cases.
- d. The Judiciary had launched various court users committees on 22nd March 2016 which if Mathare Hospital attends would assist in solving issues of accused persons overstaying in the facility.

3. Presentation by the State Department of Correctional Services

On the Role of Probation and Aftercare Service at Mathari National Teaching & Referral Hospital in Relation to Mental Patients(offenders)

Mr. Richard Kirundi, Principal Secretary, State Department of Correctional Services informed the Committee as follows:

- a. Probation Service used to provide social inquiry reports for special category Psychiatric offenders to the then advisory board. The boards functions had since been taken over by the Power of Mercy Advisory Committee(POMAC);
- b. In 2007, Probation Department posted two probation officers to the Hospital and in 2008, the department and the Mathari Hospital administration signed an MOU to build an office at the Hospital to enhance service delivery and became operational in July 2010;
- c. The department's mandate had since expanded to include the preparation of Capability and Leniency reports for offenders remanded at the Maximum Security Unit. The reports are consumed by the Psychiatric Consultants and the Director of Public Prosecutions(DPP);
- d. The probation Liason office is housed within the hospitals and the doctors are the source of referrals for the cases probation deals with. The probation officers provide social inquiry reports for the consumption of doctors and collaborate in any other relevant for a for better service delivery;
- e. The following social inquiry reports are prepared and submitted :-
 - i. Special Category Criminal Offenders (SCCO's) undergo psychiatric management, occupational therapy and life skills empowerment and upon release they are supervised by probation officers for a period of two years to

ensure reintegration and resettlement into the Community. Reports arising include

- Reports for offenders found guilty but insane by the trial courts under section 166 of the criminal procedure code and detained under Presidential pleasure
 - Offenders due for release on a special license after a three year incarceration at Mathari National Teaching & Referral Hospital
- ii. Capability reports provides doctors with the history of mental illness of the patients, their social background for informed treatment and include reports for remandees who during court proceedings exhibit symptoms of mental disorders and are thus referred for psychiatric assessment if need be , for treatment
 - iii. Leniency
These are reports for remandees who due to the severity of their mental disorder or mental retardation cannot respond to treatment and thus incapable of proceeding with their court cases. The reports are attached to doctors information and forwarded to the DPP for possible consideration of discontinuation of their cases
 - iv. Civil Patients
Civil patients who cannot be contained in the general wards for various reasons such as aggression or family rejection are committed to the Maximum security Unit. Doctors request for reports that may give them insight into the source of the aggression or rejection for better interventions
- f. The Special Category Criminal Offenders (SCCO's) are the only category of offenders that the probation department is mandated to supervise, reintegrate and resettle in the community. Current statistics shows there are 58 SCCO's, 42 males and 16 females. Out of the 42 males, 14 are serving time in Kamiti Prison for disciplinary issues while 29 of the offenders both male and female are ready for release and resettlement plans are ready. 6 of the patients await release after their cases were approved by POMAC during the last meeting held on 27th July 2012;
 - g. Probation department does not have any direct relationship with Prisons Medical Services and the prisons officers based at the Mathari Maximum Security Unit basically offer security Services similar to prison environment;

On the Role of Kenya Prison Service at Mathari National Teaching & Referral Hospital in Relation to Mental Patients (offenders)

- a. The Kenya Prisons service is governed by the Prisons Act Chapter 90 (Revised 2012) of the laws of Kenya. With regard to admission, treatment and discharge of mentally disordered offenders, part IV, section 38 of the Act gives guidelines specific to this group of offenders;
- b. Kenya Prisons Services refers mentally disordered offenders for treatment in accordance with the Act and there are specific removal instruments to the Mathari National Teaching and referral Hospital. Once the patients are certified fit to plead after recovery, a capability to make a defense is filled under Criminal Procedure code Sec 163(1) by the treating psychiatrist at the Hospital;

- c. Special Category offenders who have been convicted of capital offences are committed to Mathari National Teaching & Referral Hospital under Presidential pleasure by the High Court of Kenya. These offenders are on lifelong treatment and confinement in the Hospital is determined by their clinical response to treatment and probation reports on their social audit and suitability to be accepted back into their former homes. Reports are compiled and are discussed and deliberated now under the POMAC which recommends their freedom to the President who then authorizes their release;
- d. Remanded mentally disordered offenders are transported for psychiatric clinics by Kenya Prisons Service every Monday and Thursday when attending Psychiatrists recommend outpatient treatment. The patients then reside in their respective areas in prisons.
- e. When a committal warrant is issued by the courts based on psychiatric reports by the attending psychiatrists at Mathari National Teaching & Referral Hospital, the patients are admitted for inpatient care until certified fit to plead. They are then referred back to the remand prison to continue with their cases in court.
- f. The Kenya Prisons Service provides security of the Maximum Security Unit with a deployment of 25 prisons Wardens at the hospital who are partly housed at the facility. They are under the Command of the regional Commander (RC) Nairobi and operate on a 24 Hour basis and Work in shifts. They also escort patients to other hospitals after referral for further management of medical or surgical complications that cannot be managed at the Mathari National Teaching & Referral Hospital. Under the Prisons Act Cap 90, the period during which the prisoner has been detained in a hospital under this section shall be reckoned as part of his term of imprisonment;
- g. Under section 42 of the Prisons Act Cap 90, if any prisoned escapes during such times as he is in any hospital, mental hospital or leper settlement, no prison officer shall be held answerable therefore unless such a prisoner had been in the personal custody of such officer, and no medical officer, person in charge of a leper settlement or other person shall be held answerable therefore unless it is shown that he has helped such prisoner to escape or has willfully neglected to take reasonable precautions to prevent his escape;
- h. According to Part XIII, section 41 of the Mental Health Act Cap 248 of the laws of Kenya, a person in charge of a mental hospital may refuse to receive any person into the hospital if there is insufficient or unsuitable accommodation available therein.
- i. The Kenya Prisons Service had begun pursuing NHIF cards for inmates but the Challenge was getting the funding that NHIF required in order to cushion patients.
- j. Kenya prisons Service pays KNH and the Moi Teaching and Referral Hospital Ksh. 2,500 per patient per day for patients referred to the hospitals upon receiving requests from the two hospitals to subsidize the cost.
- k. Challenges in the management of mentally disordered offenders in prison include:-
 - i. The Kenya prisons Service does not have the capacity nor the infrastructure to manage mentally disordered offenders hence wholly reliant on the

Mathari National Teaching & Referral Hospital and in the Counties the County Referral Hospitals.

- ii. There is an acute shortage of mental health workers within Kenya Prisons Service with only one Psychiatrist posted in December 2015 and one psychiatry nurse.
 - iii. The Kenya Prisons Service does not have sufficient funding to cater for inpatient Psychiatric care of mentally disordered offenders.
 - iv. Transport at times poses a challenge in moving patients to and from Hospital
 - v. There is a shortage of wardens to provide the necessary warden patient ration of 2:1 in order to provide adequate security
 - vi. Protracted cases in court increase patients stay in the Hospitals
 - vii. The Power of Mercy Committee failure to hold more frequent deliberations
 - viii. There is no drug rehabilitation section in the Maximum Security Unit at Mathari National Teaching & Referral Hospital
- I. The Kenya Prisons Service recommends that:-
- i. Psychiatric Units be established in the Main Prisons in the Country (Nairobi, Kakamega, Kisumu, Naivasha and Nyeri);
 - ii. More mental Health Workers be recruited for the Prisons Service (psychiatrists, Psychiatric nurses, Psychiatric Social Workers, Counsellors, Clinical Officers trained in Psychiatry, etc.;
 - iii. Consider registering inmates with the National Hospital Insurance Fund as this will reduce treatment costs and allow the inmates to benefit from health insurance upon discharge from prison;
 - iv. Increase funding to cater for inpatient psychiatric treatment of mentally disordered offenders and
 - v. Upgrade the Maximum Security Unit to a Kenya Prisons service facility under the Regional Commander in Nairobi

4. Presentation by the Mathare National Teaching and referral Hospital

Dr. Julius Ogato, Medical Superintendent, Mathare National Teaching and Referral Hospital informed the Committee as follows:

- a. Mathari NTRH is the only referral facility in the country for inpatient Psychiatric forensic services. The MSU has a bed capacity of 250 with an average occupancy rate of 200%. Outpatient forensic psychiatric services exist in the Counties with consultant psychiatrists (Embu, Nyeri, Nakuru, Mombasa, Kisumu, Murang'a, Meru, Machakos, and Kisii). The hospital is solely funded through the budget of the Ministry of Health. In the last three financial years, the funding (excluding personnel emoluments) has been as follows:

F/Y	Recurrent	Development
2013/14	202,000,000.00	0
2014/15	128,971,200.00	31,500,000.00
2015/16	127,436,960.00	31,500,000.00

The funding from the Ministry is inadequate. The other agencies that refer patients to the facility do not fund the hospital. Moreover their patients do not pay user fees as they are considered state guests.

- b. The hospital was gazetted as a National Teaching and Referral Hospital on 6th December, 2013. The objective of the gazzement was to recognize the hospital's operational status and to distinguish it from County hospitals.
- c. The relationship between the Judiciary and the Mathari National Teaching & Referral Hospital is non-consultative characterized by poor collaboration and cooperation. The referrals are done through Court orders for psychiatric evaluation or committals for admission of mentally ill patients. The hospital is obligated to obey Court orders to avoid liability for contempt of court. The referral mechanism has no consideration for the available bed capacity, occupancy and requisite resources to manage the mentally ill offenders for both outpatient and inpatient psychiatric forensic services.

The reasons for referral of mental criminal offenders are:

- i. The Police Service/Prosecution require that every Capital Offender must have a mental status evaluation before being charged in a court of law
 - ii. The Courts do refer offenders for mental status evaluation
 - iii. Convicted prisoners from prisons
- d. The Judiciary and the Police are responsible for collection of the offenders post treatment and this leads to delays in conclusion of the cases. Due to the nature of the psychopathology, such patients may not have the capability to take a plea. This leads to long stay in hospital for such patients. Cases of this nature would be better addressed through consideration for leniency by the Directorate of Prosecution or reviewed by the Advisory Board for consideration by the Power of Mercy Board. In some cases, the Police take long to collect persons treated and ready to take pleas in Court. This occasions incurring of extra costs by the hospital.
 - e. The Power of Mercy Board is a creation of the Constitution of Kenya 2010. The Advisory Board was in existence prior to the Power of Mercy Board. The Advisory Board considers cases and recommends to the Power of Mercy Board for recommendation for Presidential pardon. There are legislative and procedural gaps in mechanisms to confer mercy to mentally ill offenders in the criminal justice system. The mandate to convene the Advisory Board meeting lies with the state law office (Chairman) and the Commissioner of Prisons (Secretary). The last meeting of the Advisory Board was held in 2012. This means that many patients that qualify for review of their cases and need for treatment still remain at the facility.
 - f. The relationship between the Prisons services and in particular, Prison medical services and probation services with MSU is that prison medical service refers persons within correctional and remand institutions for psychiatric services to Mathari National Teaching & Referral Hospital MSU since the Prisons Medical Service is chiefly composed of clinics and dispensaries and has no inpatient services and does not provide forensic psychiatric services. The Probation Service assists in social investigation and community linkages towards rehabilitation, repatriation and reintegration of mentally ill offenders. Currently all patients referred from the

Prisons Medical Service and probation service to the MSU are treated free of charge.

- g. Persons in police custody or under investigations, accused of capital offence are referred by the Police Service for psychiatric evaluation on capability to take plea. The police service may also refer persons who are mentally ill found in a public place for emergency treatment as provided for in the Mental Health Act. There is usually a delay in collection of patients discharged to the originator (Police).
- h. Part of the security arrangements in the MSU is high barrier walls around the facility. The other key arrangement is that the Kenya Prisons Services has deployed 5 armed warders to the facility on 24 hour duty. In addition, the hospital has engaged a private security firm to man the gates.
However these security measures are inadequate. The high barrier walls are dilapidated and weak and the warders and private security guards are not enough. Additional measures proposed for improving security include CCTV cameras, remotely controlled door management and Panic buttons.
- i. Attempts have been made by the hospital to register the offenders with National Hospital Insurance Fund but this has been hampered by their lack of identification cards. This would help pay for their health care needs in and out of Mathari National Teaching & Referral Hospital.
- j. The Ministry plans to give the Hospital financial autonomy by translating the annual allocation into a grant to be utilized by hospital management under supervision of the hospital management committee. However, grant of full autonomy requires wide stakeholder consultation and re-establishment of the hospital under an Act of Parliament.

The Committee made the following observations

1. Prisons Services had entered into agreements with the Kenyatta National Hospital and the Moi teaching and referral Hospital whereby they pay the hospital for treatment of patients referred to them upon request by the KNH and MTRH while such arrangements nor request had not been received from the Mathare National Teaching and Referral Hospital;
2. The budget line proposed for the Maximum Security unit proposed by the State Department of Correctional Services had been rejected and therefore there has been no financial allocation from the Ministry .The Committee was however not in a position to make a decision on the budget since the Parent Ministry falls under the Mandate of the Departmental Committee on Labour and Social welfare.
3. The Power of Mercy Board had already convened a meeting scheduled for on 26th April 2016 at the Mathari Mental Hospital Maximum unit to review cases.

The Committee Resolved:-

1. That the Medical Superintendent, Mathare National Teaching and Referral Hospital should submit a request to the Kenya Prisons Services for them to subsidize the cost of treatment for Patients referred to the Maximum Security Unit of the Hospital as is the case with KNH and MTRH.

2. That the Committee on Health to hold a joint sitting with the Committee on Labour and Social Welfare in order to deliberate on the need for budgetary allocation to the Maximum Security Unit of the Mathare National Teaching and Referral Hospital by the State Department for Correctional Services, Ministry of Interior & Coordination of National Government.

MIN.NO.DCH 87/2016: MEETING WITH THE PS HEALTH ON THE SUPPLEMENTARY BUDGET 2015/2016

The Committee was informed that the Principal Secretary had requested for a rescheduling of the meeting as he was unable to attend due to prior engagements. The Committee resolved that the Principal Secretary appears before the Committee on Thursday 7th April 2016 to make a presentation on the First Supplementary Estimates as well as the petition by Mr. Elijah Kingori Githima regarding the deplorable state of the mental Health Care facilities in Kenya

MIN.NO. DCH 88/2016

ADJOURNMENT

There being no other business the meeting was adjourned at 12:37pm.

SIGNED.....


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

DATE:.....

14/4/16

MINUTES OF THE 21ST SITTING OF THE DEPARTMENTAL COMMITTEE ON HEALTH HELD ON THURSDAY 31ST MARCH, 2016, IN THE 4^H FLOOR COMMITTEE ROOM, CONTINENTAL HOUSE, PARLIAMENT BUILDINGS, AT 10.00 AM.

PRESENT

1. The Hon. Dr. Racheal Nyamai, M.P. (Chairperson)
2. The Hon. Dr. Robert Pukose, M.P. (Vice Chairperson)
3. The Hon. David Karithi, M.P.
4. The Hon. Dr. Enoch Kibunguchy, M.P.
5. The Hon. Dr. Stephen Wachira, M.P.
6. The Hon. Dr. Susan Musyoka, M.P.
7. The Hon. Fred Outa, M.P.
8. The Hon. Hassan Aden Osman, M.P.
9. The Hon. James Gakuya, M.P.
10. The Hon. Joseph O. Magwanga, M.P.
11. The Hon. Kamande Mwangi, M.P.
12. The Hon. Michael Onyura, M.P.
13. The Hon. Mwinga Gunga, M.P.
14. The Hon. Paul Koinange, M.P.
15. The Hon. Raphael Milkau Otaalo, M.P.
16. The Hon. Zipporah Jesang, M.P.

ABSENT WITH APOLOGY

1. The Hon. Alfred Agoi, M.P.
2. The Hon. Christopher Nakuleu, M.P.
3. The Hon. Dr. Eseli Simiyu, M.P.
4. The Hon. Dr. Dahir D. Mohamed, M.P.
5. The Hon. Dr. James Murgor, M.P.
6. The Hon. Dr. James Nyikal, M.P.
7. The Hon. Dr. James O. Gesami, M.P.
8. The Hon. Leonard Sang, M.P.
9. The Hon. Dr. Naomi Shaban, M.P.
10. The Hon. John Nyaga Muchiri, M.P.
11. The Hon. Stephen M. Mule, M.P.
12. The Hon. Mwahima Masoud, M.P.
13. The Hon. Dr. Patrick Musimba, M.P.

IN ATTENDANCE

POWER OF MERCY ADVISORY COMMITTEE

1. Mr. Michael A Kagika - Secretary, Power of Mercy Advisory Committee.

JUDICIARY

1. Mr. Daniel Ogembo - Chief Magistrate
2. Mr. Shadrack Orieny - Ag. Chief Executive Officer(Court Administrator)

STATE DEPARTMENT OF CORRECTIONAL SERVICES

1. Mr. Richard Kirundi - Principal Secretary.
2. B. Njogia - Deputy Commissioner General of Prisons
3. Dr. Kisiyuli A. I - Psychiatrist, Prisons
4. Dr. Isiaho Charles - Deputy Director, Prisons
5. Pamela Onyango - Chief Probation Officer, Department of Probation and After Care Services

MATHARE NATIONAL TEACHING AND REFFERAL HOSPITAL

1. Dr. Julius Ogato - Medical Superintendent
2. Dr. Mucheru Wangombe - Deputy Medical Superintendent
3. Dr. Jumba Joseph - Consultant Psychiatrist
4. Mr. Paul Mwove - Nursing Officer

NATIONAL ASSEMBLY SECRETARIAT

1. Ms. Esther Nginyo - Third Clerk Assistant.
2. Ms. Ruth Mwihaki - Third Clerk Assistant.
3. Mr. Dennis Mogare - Third Clerk Assistant.
4. Ms. Noelle Chelagat - Media Relations Officer III.

MIN.NO. DCH 85 /2016: PRELIMINARIES.

The Chairperson called the meeting to order at 10.23 am and a word of prayer was said by Hon. Fred Outa, M.P. The Chairperson thereafter welcomed all those present to the meeting and asked them to introduce themselves.

MIN.NO.DCH 86/2016: CONSULTATIVE MEETING WITH THE POWER OF MERCY ADVISORY COMMITTEE, CHIEF REGISTRAR, PS MINISTRY OF HEALTH, PS MISTRY OF INTERIOR AND COORDINATION OF NATIONAL GOVERNMENT, COMMISSIONER GENERAL OF PRISONS, INSPÉCTOR GENERAL OF POLICE AND THE MEDICAL SUPERIDENDET MATHARE NATIONAL TEACHING AND REFFERAL HOSPITAL OVER THE STATUS OF THE MAXIMUM SECURITY UNIT OF THE MNT & R HOSPITAL

1. Presentation by the Power of Mercy Advisory Committee

Mr. Michael A Kagika, Secretary, Power of Mercy Advisory Committee informed the Committee as follows:

- a. The Constitution of Kenya and the Power of Mercy Act provide that any person may petition the President through the Committee to exercise the power of mercy

- and grant any relief specified in Article 133(1) of the Constitution for the benefit of a convicted criminal offender;
- b. Whereas convicted offenders of sane mind are committed to the mainstream correctional facilities, convicted offenders who were found guilty of the act or omission charged but were insane when they did the act or made the omission are detained, on the orders of the President, in a mental Hospital, prison or other suitable place of safe custody. The practice has been to commit this category of offenders to the Mathari Special Maximum Unit of Mathari National Teaching & Referral Hospital where they are detained at the pleasure of the President. In common parlance, this category is referred to as special category patients;
 - c. The police also detain remandees with mental disorders at the Hospital as does the courts with pre-trial remandees of similar disposition. Convicted offenders who suffer mental illness while serving their term are also removed from respective prisons to receive treatment at the Mathari National Teaching & Referral Hospital as patients;
 - d. The two categories that fall under the meaning of the Power of Mercy Act are the special category and the Convicted category patients. The Committee works in close consultation with the Medical Superintendent at the Mathari National Teaching and Referral Hospital for the consideration of recommending to the President the discharge or further handling of persons detained at the hospital while paying regard to the requirements of the power of mercy legal regime;
 - e. In 2016 work plan, the Chairman was scheduled to lead the Committee on a visit to the Mathari Mental Hospital Maximum unit on 26th April, 2016 to review cases that would be presented by the Medical Superintendent;
 - f. It was observed that the Criminal Procedure Code has elaborately provided the procedures in cases of lunacy or other incapacity of an accused person in sections 162 to 166. there was therefore need for closer stakeholder collaboration to draw partnership guidelines that will avail more expedient determination of matters relating to offenders with mental disorders. This would stretch across the whole spectrum of the justice system from the stages of arrest, investigations, through trial, sentencing, corrective rehabilitation and eventual release, reintegration and resettlement into society;
 - g. It was paramount that adequate resources are allocated to the Mathari Mental Hospital and by extension all other Hospitals that offer care to mental patients. The dilapidated physical infrastructure of the Hospital was not conducive for the care and treatment of patients, nor the staff working therein. In the case of special category offenders, once they are booked into the Mathari National Teaching & Referral Hospital they translate into patients whom the hospital should cater for holistically including offering security. This would call for the increase of resource allocation;
 - h. The hospitals image would receive a big boost if the institution was formally upgraded in to a National Teaching and Referral Hospital to make it the premier mental treatment facility in the Country.
 - i. The POMAC had for the first time been sufficiently funded to cover the core mandate of the Committee and the board sits regularly.

2. Presentation by the Judiciary

Mr. Daniel Ogembo, Chief Magistrate representing the Chief Registrar informed the Committee that he had been requested on short notice to appear before the Committee to make the presentation and did not therefore have a written submission. He however committed to submit a written submission in one week after the date of the sitting.

The Committee was however informed as follows:

- a. All accused persons in murder trials must be subjected to a psychiatric exam to assess their suitability to stand trial and a report made to the courts;
- b. Reports are received in a maximum of two days and the accused stand trial;
- c. Upon suspicion that the accused is not fit to plead, the patients remain in Mathare National Teaching and Referral Hospital at the pleasure of the President. It is upon the Director of Public Prosecution to recommend or apply for withdrawal of such cases.
- d. The Judiciary had launched various court users committees on 22nd March 2016 which if Mathare Hospital attends would assist in solving issues of accused persons overstaying in the facility.

3. Presentation by the State Department of Correctional Services

On the Role of Probation and Aftercare Service at Mathari National Teaching & Referral Hospital in Relation to Mental Patients(offenders)

Mr. Richard Kirundi, Principal Secretary. State Department of Correctional Services informed the Committee as follows:

- a. Probation Service used to provide social inquiry reports for special category Psychiatric offenders to the then advisory board. The boards functions had since been taken over by the Power of Mercy Advisory Committee(POMAC);
- b. In 2007, Probation Department posted two probation officers to the Hospital and in 2008, the department and the Mathari Hospital administration signed an MOU to build an office at the Hospital to enhance service delivery and became operational in July 2010;
- c. The department's mandate had since expanded to include the preparation of Capability and Leniency reports for offenders remanded at the Maximum Security Unit. The reports are consumed by the Psychiatric Consultants and the Director of Public Prosecutions(DPP);
- d. The probation Liason office is housed within the hospitals and the doctors are the source of referrals for the cases probation deals with. The probation officers provide social inquiry reports for the consumption of doctors and collaborate in any other relevant for a for better service delivery;
- e. The following social inquiry reports are prepared and submitted :-
 - i. Special Category Criminal Offenders (SCCO's) undergo psychiatric management, occupational therapy and life skills empowerment and upon release they are supervised by probation officers for a period of two years to

ensure reintegration and resettlement into the Community. Reports arising include

- Reports for offenders found guilty but insane by the trial courts under section 166 of the criminal procedure code and detained under Presidential pleasure
 - Offenders due for release on a special license after a three year incarceration at Mathari National Teaching & Referral Hospital.
- ii. Capability reports provides doctors with the history of mental illness of the patients, their social background for informed treatment and include reports for remandees who during court proceedings exhibit symptoms of mental disorders and are thus referred for psychiatric assessment if need be , for treatment
- iii. Leniency
These are reports for remandees who due to the severity of their mental disorder or mental retardation cannot respond to treatment and thus incapable of proceeding with their court cases. The reports are attached to doctors information and forwarded to the DPP for possible consideration of discontinuation of their cases
- iv. Civil Patients
Civil patients who cannot be contained in the general wards for various reasons such as aggression or family rejection are committed to the Maximum security Unit. Doctors request for reports that may give them insight into the source of the aggression or rejection for better interventions
- f. The Special Category Criminal Offenders (SCCO's) are the only category of offenders that the probation department is mandated to supervise, reintegrate and resettle in the community. Current statistics shows there are 58 SCCO's, 42 males and 16 females. Out of the 42 males, 14 are serving time in Kamiti Prison for disciplinary issues while 29 of the offenders both male and female are ready for release and resettlement plans are ready. 6 of the patients await release after their cases were approved by POMAC during the last meeting held on 27th July 2012;
- g. Probation department does not have any direct relationship with Prisons Medical Services and the prisons officers based at the Mathari Maximum Security Unit basically offer security Services similar to prison environment;

On the Role of Kenya Prison Service at Mathari National Teaching & Referral Hospital in Relation to Mental Patients (offenders)

- a. The Kenya Prisons service is governed by the Prisons Act Chapter 90 (Revised 2012) of the laws of Kenya. With regard to admission, treatment and discharge of mentally disordered offenders, part IV, section 38 of the Act gives guidelines specific to this group of offenders;
- b. Kenya Prisons Services refers mentally disordered offenders for treatment in accordance with the Act and there are specific removal instruments to the Mathari National Teaching and referral Hospital. Once the patients are certified fit to plead after recovery, a capability to make a defense is filled under Criminal Procedure code Sec 163(1) by the treating psychiatrist at the Hospital;

- c. Special Category offenders who have been convicted of capital offences are committed to Mathari National Teaching & Referral Hospital under Presidential pleasure by the High Court of Kenya. These offenders are on lifelong treatment and confinement in the Hospital is determined by their clinical response to treatment and probation reports on their social audit and suitability to be accepted back into their former homes. Reports are compiled and are discussed and deliberated now under the POMAC which recommends their freedom to the President who then authorizes their release;
- d. Remanded mentally disordered offenders are transported for psychiatric clinics by Kenya Prisons Service every Monday and Thursday when attending Psychiatrists recommend outpatient treatment. The patients then reside in their respective areas in prisons.
- e. When a committal warrant is issued by the courts based on psychiatric reports by the attending psychiatrists at Mathari National Teaching & Referral Hospital, the patients are admitted for inpatient care until certified fit to plead. They are then referred back to the remand prison to continue with their cases in court.
- f. The Kenya Prisons Service provides security of the Maximum Security Unit with a deployment of 25 prisons Wardens at the hospital who are partly housed at the facility. They are under the Command of the regional Commander (RC) Nairobi and operate on a 24 Hour basis and Work in shifts. They also escort patients to other hospitals after referral for further management of medical or surgical complications that cannot be managed at the Mathari National Teaching & Referral Hospital. Under the Prisons Act Cap 90, the period during which the prisoner has been detained in a hospital under this section shall be reckoned as part of his term of imprisonment;
- g. Under section 42 of the Prisons Act Cap 90, if any prisoner escapes during such times as he is in any hospital, mental hospital or leper settlement, no prison officer shall be held answerable therefore unless such a prisoner had been in the personal custody of such officer, and no medical officer, person in charge of a leper settlement or other person shall be held answerable therefore unless it is shown that he has helped such prisoner to escape or has willfully neglected to take reasonable precautions to prevent his escape;
- h. According to Part XIII, section 41 of the Mental Health Act Cap 248 of the laws of Kenya, a person in charge of a mental hospital may refuse to receive any person into the hospital if there is insufficient or unsuitable accommodation available therein.
- i. The Kenya Prisons Service had begun pursuing NHIF cards for inmates but the Challenge was getting the funding that NHIF required in order to cushion patients.
- j. Kenya prisons Service pays KNH and the Moi Teaching and Referral Hospital Ksh. 2,500 per patient per day for patients referred to the hospitals upon receiving requests from the two hospitals to subsidize the cost.
- k. Challenges in the management of mentally disordered offenders in prison include:-
 - i. The Kenya prisons Service does not have the capacity nor the infrastructure to manage mentally disordered offenders hence wholly reliant on the

Mathari National Teaching & Referral Hospital and in the Counties the County Referral Hospitals.

- ii. There is an acute shortage of mental health workers within Kenya Prisons Service with only one Psychiatrist posted in December 2015 and one psychiatry nurse.
 - iii. The Kenya Prisons Service does not have sufficient funding to cater for inpatient Psychiatric care of mentally disordered offenders.
 - iv. Transport at times poses a challenge in moving patients to and from Hospital
 - v. There is a shortage of wardens to provide the necessary warden patient ration of 2:1 in order to provide adequate security
 - vi. Protracted cases in court increase patients stay in the Hospitals
 - vii. The Power of Mercy Committee failure to hold more frequent deliberations
 - viii. There is no drug rehabilitation section in the Maximum Security Unit at Mathari National Teaching & Referral Hospital
- i. The Kenya Prisons Service recommends that:-
- i. Psychiatric Units be established in the Main Prisons in the Country (Nairobi, Kakamega, Kisumu, Naivasha and Nyeri);
 - ii. More mental Health Workers be recruited for the Prisons Service (psychiatrists, Psychiatric nurses, Psychiatric Social Workers, Counsellors, Clinical Officers trained in Psychiatry, etc.;
 - iii. Consider registering inmates with the National Hospital Insurance Fund as this will reduce treatment costs and allow the inmates to benefit from health insurance upon discharge from prison;
 - iv. Increase funding to cater for inpatient psychiatric treatment of mentally disordered offenders and
 - v. Upgrade the Maximum Security Unit to a Kenya Prisons service facility under the Regional Commander in Nairobi

4. Presentation by the Mathare National Teaching and referral Hospital

Dr. Julius Ogato, Medical Superintendent, Mathare National Teaching and Referral Hospital informed the Committee as follows:

- a. Mathari NTRH is the only referral facility in the country for inpatient Psychiatric forensic services. The MSU has a bed capacity of 250 with an average occupancy rate of 200%. Outpatient forensic psychiatric services exist in the Counties with consultant psychiatrists (Embu, Nyeri, Nakuru, Mombasa, Kisumu, Murang'a, Meru, Machakos, and Kisii). The hospital is solely funded through the budget of the Ministry of Health. In the last three financial years, the funding (excluding personnel emoluments) has been as follows:

F/Y	Recurrent	Development
2013/14	202,000,000.00	0
2014/15	128,971,200.00	31,500,000.00
2015/16	127,436,960.00	31,500,000.00

The funding from the Ministry is inadequate. The other agencies that refer patients to the facility do not fund the hospital. Moreover their patients do not pay user fees as they are considered state guests.

- b. The hospital was gazetted as a National Teaching and Referral Hospital on 6th December, 2013. The objective of the gazetting was to recognize the hospital's operational status and to distinguish it from County hospitals.
- c. The relationship between the Judiciary and the Mathari National Teaching & Referral Hospital is non-consultative characterized by poor collaboration and cooperation. The referrals are done through Court orders for psychiatric evaluation or committals for admission of mentally ill patients. The hospital is obligated to obey Court orders to avoid liability for contempt of court. The referral mechanism has no consideration for the available bed capacity, occupancy and requisite resources to manage the mentally ill offenders for both outpatient and inpatient psychiatric forensic services.

The reasons for referral of mental criminal offenders are:

- i. The Police Service/Prosecution require that every Capital Offender must have a mental status evaluation before being charged in a court of law
 - ii. The Courts do refer offenders for mental status evaluation
 - iii. Convicted prisoners from prisons
- d. The Judiciary and the Police are responsible for collection of the offenders post treatment and this leads to delays in conclusion of the cases. Due to the nature of the psychopathology, such patients may not have the capability to take a plea. This leads to long stay in hospital for such patients. Cases of this nature would be better addressed through consideration for leniency by the Directorate of Prosecution or reviewed by the Advisory Board for consideration by the Power of Mercy Board. In some cases, the Police take long to collect persons treated and ready to take pleas in Court. This occasions incurring of extra costs by the hospital.
 - e. The Power of Mercy Board is a creation of the Constitution of Kenya 2010. The Advisory Board was in existence prior to the Power of Mercy Board. The Advisory Board considers cases and recommends to the Power of Mercy Board for recommendation for Presidential pardon. There are legislative and procedural gaps in mechanisms to confer mercy to mentally ill offenders in the criminal justice system. The mandate to convene the Advisory Board meeting lies with the state law office (Chairman) and the Commissioner of Prisons (Secretary). The last meeting of the Advisory Board was held in 2012. This means that many patients that qualify for review of their cases and need for treatment still remain at the facility.
 - f. The relationship between the Prisons services and in particular, Prison medical services and probation services with MSU is that prison medical service refers persons within correctional and remand institutions for psychiatric services to Mathari National Teaching & Referral Hospital MSU since the Prisons Medical Service is chiefly composed of clinics and dispensaries and has no inpatient services and does not provide forensic psychiatric services. The Probation Service assists in social investigation and community linkages towards rehabilitation, repatriation and reintegration of mentally ill offenders. Currently all patients referred from the

2. That the Committee on Health to hold a joint sitting with the Committee on Labour and Social Welfare in order to deliberate on the need for budgetary allocation to the Maximum Security Unit of the Mathare National Teaching and Referral Hospital by the State Department for Correctional Services, Ministry of Interior & Coordination of National Government.

MIN.NO.DCH 87/2016: MEETING WITH THE PS HEALTH ON THE SUPPLEMENTARY BUDGET 2015/2016

The Committee was informed that the Principal Secretary had requested for a rescheduling of the meeting as he was unable to attend due to prior engagements. The Committee resolved that the Principal Secretary appears before the Committee on Thursday 7th April 2016 to make a presentation on the First Supplementary Estimates as well as the petition by Mr. Elijah Kingori Githima regarding the deplorable state of the mental Health Care facilities in Kenya

MIN.NO. DCH 88/2016

ADJOURNMENT

There being no other business the meeting was adjourned at 12.37pm.

SIGNED.....


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

DATE:.....

14/4/16

Prisons Medical Service and probation service to the MSU are treated free of charge.

- g. Persons in police custody or under investigations, accused of capital offence are referred by the Police Service for psychiatric evaluation on capability to take plea. The police service may also refer persons who are mentally ill found in a public place for emergency treatment as provided for in the Mental Health Act. There is usually a delay in collection of patients discharged to the originator (Police).
- h. Part of the security arrangements in the MSU is high barrier walls around the facility. The other key arrangement is that the Kenya Prisons Services has deployed 5 armed warders to the facility on 24 hour duty. In addition, the hospital has engaged a private security firm to man the gates.
However these security measures are inadequate. The high barrier walls are dilapidated and weak and the warders and private security guards are not enough. Additional measures proposed for improving security include CCTV cameras, remotely controlled door management and Panic buttons.
- i. Attempts have been made by the hospital to register the offenders with National Hospital Insurance Fund but this has been hampered by their lack of identification cards. This would help pay for their health care needs in and out of Mathari National Teaching & Referral Hospital.
- j. The Ministry plans to give the Hospital financial autonomy by translating the annual allocation into a grant to be utilized by hospital management under supervision of the hospital management committee. However, grant of full autonomy requires wide stakeholder consultation and re-establishment of the hospital under an Act of Parliament.

The Committee made the following observations

1. Prisons Services had entered into agreements with the Kenyatta National Hospital and the Moi teaching and referral Hospital whereby they pay the hospital for treatment of patients referred to them upon request by the KNH and MTRH while such arrangements nor request had not been received from the Mathare National Teaching and Referral Hospital;
2. The budget line proposed for the Maximum Security unit proposed by the State Department of Correctional Services had been rejected and therefore there has been no financial allocation from the Ministry .The Committee was however not in a position to make a decision on the budget since the Parent Ministry falls under the Mandate of the Departmental Committee on Labour and Social welfare.
3. The Power of Mercy Board had already convened a meeting scheduled for on 26th April 2016 at the Mathari Mental Hospital Maximum unit to review cases.

The Committee Resolved:-

1. That the Medical Superintendent, Mathare National Teaching and Referral Hospital should submit a request to the Kenya Prisons Services for them to subsidize the cost of treatment for Patients referred to the Maximum Security Unit of the Hospital as is the case with KNH and MTRH.

MINUTES OF THE 9TH SITTING OF THE DEPARTMENTAL COMMITTEE ON HEALTH
HELD ON TUESDAY 23RD FEBRUARY, 2016 AT THE MATHARE MENTAL HOSPITAL, AT
10.00 AM.

PRESENT

1. The Hon. Dr. Racheal Nyamai, M.P. (Chairperson)
2. The Hon. Dr. Robert Pukose, M.P. (Vice Chairperson)
3. The Hon. Alfred Agoi, M.P.
4. The Hon. Dr. Dahir D. Mohamed, M.P.
5. The Hon. Dr. James Murgor, M.P.
6. The Hon. Dr. James Nyikal, M.P.
7. The Hon. Dr. Stephen Wachira, M.P.
8. The Hon. Kamande Mwangi, M.P.
9. The Hon. Michael Onyura, M.P.
10. The Hon. Raphael Milkau Otaalo, M.P.
11. The Hon. Zipporah Jesang, M.P.

ABSENT WITH APOLOGY

1. The Hon. Christopher Nakuleu, M.P.
2. The Hon. David Karithi, M.P.
3. The Hon. Dr. Eseli Simiyu, M.P.
4. The Hon. Dr. Enoch Kibunguchy, M.P.
5. The Hon. Dr. James O. Gesami, M.P.
6. The Hon. Dr. Naomi Shaban, M.P.
7. The Hon. Hassan Aden Osman, M.P.
8. The Hon. James Gakuya, M.P.
9. The Hon. Joseph O. Magwanga, M.P.
10. The Hon. Mwinga Gunga, M.P.
11. The Hon. Stephen M. Mule, M.P.
12. The Hon. Paul Koinange, M.P.
13. The Hon. Dr. Susan Musyoka, M.P.
14. The Hon. Alfred Outa, M.P.
15. The Hon. Mwahima Masoud, M.P.
16. The Hon. John Nyaga Muchiri, M.P.
17. The Hon. Leonard Sang, M.P.
18. The Hon. Dr. Patrick Musimba, M.P.

IN ATTENDANCE

MATHARE NATIONAL TEACHING AND REFFERAL HOSPITAL

1. Dr. Julius Ogato - Medical Superintendent.
2. Dr. Catherine S. Mutisya - Representing Director of Medical Services- MOH.
3. Mr. Paul Mwove - Nursing Officer In charge
4. Ms. Milkah Musyoki - Health Administrative Officer In Charge
5. Mr. Barrack Omondi - Accountant In charge

6. Mr. Julius Ken Kiambi - Procurement Officer In charge

NATIONAL ASSEMBLY SECRETARIAT

1. Ms. Esther Nginyo - Third Clerk Assistant.
2. Ms. Ruth Mwhaki - Third Clerk Assistant.
3. Ms. Marale Sande - Research officer
4. Ms. Fatuma Abdi - Audio Recorder
5. Mr. Kariuki Moses - Serjeant At Arms

MIN.NO. DCH 35/2016: PRELIMINARIES.

The Chairperson called the meeting to order at 10.30 am and invited the Members present, representatives of the Ministry and the Mathare National and Teaching Hospital Management for a round of introductions.

The Chairperson thereafter informed the meeting that the visit was in response to a petition by one Mr. Elijah Kingori regarding the deplorable state of mental health care facilities in Kenya. The purpose of the visit was for the Committee to assess the status of the hospital and its health Service delivery.

MIN.NO.DCH 36/2016: SUBMISSIONS FROM MATHARE NATIONAL TEACHING AND REFFERAL HOSPITAL

Presentation by the Medical Superintendent, Mathare National Teaching and Referral Hospital

Dr. Julius Ogato, informed the Committee that:-

Background information

1. MNT & R Hospital was a specialized national referral facility for mental health patients that was established in 1904 as a small pox isolation Centre and which later became a lunatic Asylum. In 1924, it became Mathari Mental Hospital and later in 1964 it became Mathari Hospital. In 1978, a maximum security unit was opened for law offenders with mental illness.

Current Status

2. The Hospital is the only public institution in the country offering specialized psychiatric Services, forensic services, drug rehabilitation services and training in psychiatry for doctors and other health workers from both public and private institutions from the region. It also offers a comprehensive care Clinic for HIV patients

Workload

3. The hospital had a bed capacity of 700 but with 650 beds currently (332 beds in the civil unit and 377 in the maximum security unit. It had average bed occupancy of 119% in the civil unit and 115 % in the maximum security unit. The demand for new services had led to the closure of some wards to provide space for the services.

4. The average length of stay in the civil unit was 47 days while that of the maximum security unit was 9 months to 3 years.
5. The Hospital had an average of 4, 188 admissions in 2014/2015 and 82,188 outpatients while a Medically Assisted Therapy (MAT) Clinic with the use of Methadone ran at the hospital with an average of 400 patients a day.

Staffing

6. The total number of staff at the hospital was 483 which was way below the international ratios. There was an acute shortage of Specialist Psychiatrists, Psychiatric nurses, medical social workers, clinical psychologists, occupational therapists and artisans and other cadres.
7. The staffing requirements for the hospital were indicated as follows:-

No	Cadre	No of Staff	Requirement	Gap
1.	Specialist psychiatrists	10	16	6
2.	Nurses	206		
3.	Social Workers	5	19	13
4.	Occupational Therapists	12	26	14
5.	Clinical Psychologists	0	32	32
6.	Medical Officers	14	12	2
7.	Pharmacists	12	35	225
8.	Dentists	6	9	3
9.	Lab technicians	14	33	19
10.	Clinical Officers	7	15	8
11.	HRIO	4	13	9

Physical Infrastructure

12. The Hospitals buildings were dilapidated and were designed in a prison like manner. The wards lacked most of the essential facilities such as toilets, bathrooms sink and ventilations. The rehabilitation facilities services were also inadequate.
13. The Ministry of Roads and Public Works was already on the ground working on the designs and drawings for proposed developments in the hospital and would be providing a report on the requirements in three months.
14. The hospital had an outstanding water bill of Kshs. 40 Million which had led to disconnection of water services thereby posing the risk of compromised hygiene for the patients. There were no water storage facilities to cushion the hospital water requirement in case of disconnection. The laundry facilities were also inadequate.

Drugs and other Commodities

15. The hospital experienced an erratic and inadequate supply of new generation psychotropic drugs and other commodities which led to long hospital stays and high cost of maintenance, frequent readmission of patients, violent behavior thus destruction of hospital property and assault of staff members.
16. The requirements for the drugs were Ksh 40 Million per year for both psychiatric and general medicine. The hospital had received Ksh 20 Million in the 2015/2016 financial year. Adequate supply of new generation drugs was therefore essential for effective service delivery.

17. The Hospital was to benefit from the Managed Equipment Service program and was set to receive a general Purpose X ray Unit, mammography x-ray unit, ultra Sound x ray unit and OPG x ray unit.

Referral Services

18. The Hospital had a poor referral system for mentally ill law offenders. There were also long delays by the legal system in collecting patients after letters of capability to stand trials had been issued. This led to long hospital stays with the average length of stay for maximum security unit ranging from 9 months to 3 years and high maintenance costs yet the Hospital did not get support from the Ministry of Home Affairs as the mentally ill offenders were exempted from paying hospital fees.
19. Capital offenders were sent for mental assessment at the hospital to assess their fitness to take pleas. Those who were found unfit were admitted until they were fit. Reports to assess the mental capacity of offenders were done three times a week by the hospital. Despite the foregoing, there were no cost sharing measures with the Judiciary for the patients who were referred to the facility.
20. The hospital was facing financial problems as Patients were often abandoned at the hospital due to the stigma associated with mental illness. There was need to establish half way homes to cater for such abandoned patients to ease pressure from the hospital.

Training and research

21. Teaching and research was one of the core functions of the Hospital. The hospital had continued to be the main institution for training medical doctors and other health professionals at Diploma, undergraduate and post graduate levels from University of Nairobi, KMTC and other institutions in Kenya. KMTC had a campus headed by a principal within the hospital. Over 4000 health professionals had trained in the institution in the past three years while a bigger number had been turned away due to lack of facilities. The management had signed MOUs with the institutions for trainings and was receiving token payments for the trainings.
22. The demand for training had exceeded the available training facilities and responses. Since 2009, over 1,000 trainees had passed through the Continuing medical department. These were from various institutions including The Aga Khan University, University of Nairobi, Kenyatta University, Kenya Methodist University, AMREF, Mater Hospital and Pumwani Hospital.
23. The Hospital lacked proper training facilities including lecture theatres with the post graduate students at times having to study from outside or in the cafeteria.

Funding

24. The Hospital was allocated 158,500,000 in the Financial Year 2015/2016 as follows Recurrent 127,000,000 and Development 31,500,000. It had collected Kshs 45,000,000 as Facility Improvement Fund. The hospital also receives supplies medical supplies from KEMSA and NPHL.
25. The Hospital had devised ways to improve revenue as follows:- Installation of relevant FIF software, Market NHIF services to the patients(This would lead to improved hospital cash flow and also reduce waivers), identification and implementation of revenue

generating projects i.e. dairy farming and poultry keeping, measures of cost saving i.e. use of solar energy and bio gas etc.

Hospital requirements to become the Ideal psychiatric hospital

The Hospital needed restructuring and reorganization in order to meet international standards in mental Health as well as the following:

- a) Increased staffing levels
- b) Construction of a new psychiatric hospital to match level 6 status,
- c) Establishment of a neuropsychiatry unit, psycho-trauma Centre, and modern resource Centre
- d) Ensure an adequate supply of new generation psychotropic drugs,
- e) Provide counselling of patients and family,
- f) Provide a safe therapeutic environment for recovery and rehabilitation, vocational training and return to society of patients as productive and independent individuals,
- g) establish a gender violence and recovery Centre and a patient support Centre,
- h) establish half way homes for abandoned patients,
- i) Interministerial collaboration in the treatment and rehabilitation of law offenders admitted in the hospital
- j) Diagnostic imaging i.e EEG, X-ray, MRI and CT scans and
- k) Integration of Services at O.P.D level

Presentation by Ms. Agnes K. Mwenda - Representing the Workers Union

The Committee was informed that:

1. There was a shortage of staff at the hospital which was interfering with service delivery.
2. The wards were overcrowded i.e. while the average per ward should be 60- 70 patients; the forensic side has 145 patients maximum with one nurse attending to them at night. The overworking predisposed the nurses and other workers to high stress levels.
3. The Hospital had no functional ambulance. In addition, the hospital required a morgue just like in an ordinary hospital.
4. There was need for the nurses to be compensated with special allowances due to the nature of environment that they worked in and for the long working hours.

Presentation by Dr. Catherine S. Mutisya - Representing Director of Medical Services- Ministry of Health

The Committee was informed that:-

1. The MNT & RH was managed as a unit at the Ministry of Health and that allocations to the hospital were as per the district hospitals but the hospital did receive a higher allocation given its status as a national hospital.
2. The Ministry of Public service was in the process of filling gaps in Human resources at the Hospital.
3. Safaricom through Kenya @ 50 had renovated some wards and the Presidents also promised Ksh 50 million for refurbishment of the hospital.

Committee Observations:

The Committee observed that:

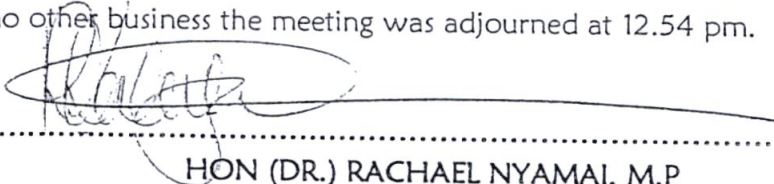
1. There have been no significant infrastructural developments by the hospital since the establishment of the Maximum Security Unit in 1974;
2. The Hospital was understaffed. Notably in the Maximum security unit, one nurse was in charge of 147 patients.
3. As established, the Hospital was still managed as a unit in the Ministry of Health headquarters which is unconstitutional since the hospital has already been classified as a National teaching and referral Hospital. There was need for autonomy in line with its status as a National Teaching and Referral Hospital.
4. The hospital should be receiving its allocation as was the case with KNH and MTRH. There was therefore need for the Ministry to gazette the Hospital as a parastatal and draft necessary law for the same. The hospital should be managed by a director as opposed to a medical superintendent.
5. There was need to relook at the relationship between the hospital with the training institutions and with the court system in a bid to ease its financial pressure.
6. The Hospital was overstretching in terms of services offered and resources as they offered services to general outpatient and Comprehensive care clinics which was not in line with the mandate of the Hospital as a specialized mental Health Hospital.
7. There was need to establish a transitional mechanism for the patients who had been discharged and abandoned by their families.
8. The hospital needed to ensure that the hospital land is not grabbed or encroached into by private developers through the proper mechanisms.

9. MIN. NO. DCH 37/2016

ADJOURNMENT

There being no other business the meeting was adjourned at 12.54 pm.

SIGNED.....



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

DATE:.....

3/3/2016

MINUTES OF THE 4TH SITTING OF THE DEPARTMENTAL COMMITTEE ON HEALTH HELD ON THURSDAY, 11TH FEBRUARY, 2016 IN THE COMMITTEE ROOM ON 2ND FLOOR, CONTINENTAL HOUSE, PARLIAMENT BUILDINGS, AT 10.00 AM.

PRESENT

1. The Hon. Dr. Racheal Nyamai, M.P. (Chairperson)
2. The Hon. Dr. Robert Pukose, M.P. (Vice Chairperson)
3. The Hon. Christopher Nakuleu, M.P.
4. The Hon. David Karithi, M.P.
5. The Hon. Dr. Dahir D. Mohamed, M.P.
6. The Hon. Dr. Eseli Simiyu, M.P.
7. The Hon. Dr. Enoch Kibunguchy, M.P.
8. The Hon. Dr. James Murgor, M.P.
9. The Hon. Dr. James O. Gesami, M.P.
10. The Hon. Dr. Naomi Shaban, M.P.
11. The Hon. Hassan Aden Osman, M.P.
12. The Hon. James Gakuya, M.P.
13. The Hon. Joseph O. Magwanga, M.P.
14. The Hon. Kamande Mwangi, M.P.
15. The Hon. Michael Onyura, M.P.
16. The Hon. Mwinga Gunga, M.P.
17. The Hon. Raphael Milkau Otaalo, M.P.
18. The Hon. Stephen M. Mule, M.P.

ABSENT WITH APOLOGY

1. The Hon. Dr. James Nyikal, M.P.
2. The Hon. Paul Koinange, M.P.
3. The Hon. Dr. Stephen Wachira, M.P.
4. The Hon. Alfred Agoi, M.P.
5. The Hon. Dr. Susan Musyoka, M.P.
6. The Hon. Alfred Outa, M.P.
7. The Hon. Mwachima Masoud, M.P.
8. The Hon. Zipporah Jesang, M.P.
9. The Hon. John Nyaga Muchiri, M.P.
10. The Hon. Leonard Sang, M.P.
11. The Hon. Dr. Patrick Musimba, M.P.

IN ATTENDANCE

1. Mr. Elijah King'ori Githima - Petitioner

NATIONAL ASSEMBLY SECRETARIAT

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

3. Mr. Kariuki Moses - Serjeant At Arms

MIN.NO. DCH 15/2016: PRELIMINARIES.

The Chairperson called the meeting to order at 10.30 am and a word of prayer was said by Hon. Christopher Nakuleu, M.P. The Chairperson thereafter invited the Members present, and the petitioner to introduce them.

MIN.NO.DCH 16/2016: AGENDA ADOPTION.

The agenda of the meeting was adopted after being proposed by the Hon. Mwinga Gunga, M.P. and seconded by the Hon. James Gakuya, M.P.

MIN.NO.DCH 17/2016: SUBMISSIONS FROM THE PETITIONER IN THE PETITION ON THE DEPLORABLE STATE OF MENTAL HEALTH FACILITIES IN KENYA

Mr. Elijah Kingori Githima informed the Committee that:-

1. He was 28 years old and was a former student of Moi University. He had dropped out of Moi University during his second year of study after he went through some difficulties and fell ill. He was later diagnosed as bipolar at the Nyeri Provincial General Hospital after a failed suicide attempt but could not afford the medication for the condition;
2. There was only one major mental health Hospital In Kenya, the Mathare National Teaching and Referral Hospital and that the wards designed for mental health patients in the general hospitals across the country were understaffed, underfunded and in a bad physical condition;
3. Individuals with mental health problems were suicidal but were often charged for attempted suicide rather than being offered the medical assistance they need. Charging a mentally ill and suicidal individual person for attempted suicide was therefore akin to making mental illness a criminal offence and only increased the stigma and hopelessness felt by the individual;
4. There was need to decriminalize suicide especially when it emanates from mental illness as was the case in the United Kingdom, India among other countries that had decriminalized the same.
5. There were increased cases of suicide in the country and there was need to look at suicide as an illness in order to be able to help the victims.
6. The Mental Health Bill, 2014 that was before the National Assembly was a progressive document that was yet to be operationalized.

He thereafter prayed that the Committee recommends,

- a) The establishment of mental healthcare facilities in the country to have at least one per County;
- b) Adequate budgetary allocations for the running of the existing facilities;
- c) That the government through the Ministry of Health recognizes the World Mental Healthcare day celebrated on 10th October every year and on this day sensitizes people on mental health illnesses. This would create awareness and help reduce the stigma suffered by the patients.

Committee Observations:

The Committee observed that:

1. Mental Health facilities in the country were not properly funded;
2. There is a lot stigmatization of mental Health Patients in the country based on a lack of understanding of the illness by the general public;
3. The Petitioner had dropped out of College due to mental illness and with proper support he can lead a normal productive life.
4. The judiciary had always attempted to establish the mental health status of accused persons before putting them on trial. This was an adequate safeguard against punishing persons for actions committed when mentally ill.
5. There was need to fund and encourage training of more consultant psychiatrists.
6. The public health system in Kenya had failed to adequately care for mental health patients.
7. There was need to engage the Ministry of Health to come up with a strategy/policy to tackle the matter of mental healthcare i.e. funding, facilities, and training of specialists.

Committee Resolutions:

The Committee resolved:

1. That the issue of Funding for mental Hospitals and in particular the Mathare National Teaching and Referral Hospital and Gilgil Hospital be raised for discussion during the retreat with the Ministry scheduled for Wednesday 17th to Saturday 20th February 2016.
2. That the Ministry of Health to appear before the Committee after the Committees scheduled visit to the Mathare National Teaching and referral hospital on 23rd February 2016 to give information on the quality of care and the status of Mental Health facilities in the country.
3. The Ministry of Health should second an officer responsible for mental health matters to accompany the Committee during its planned visit to Mathari Mental Hospital on 23rd February, 2016.

Members thereafter pledged to support the Petitioner in their individual capacities to access medical assistance in the form of helping him access Psychiatric care and to fund the consultation fees and cost of medicine for the petitioner.

MIN.NO.DCH 18/2016: CONSIDERATION AND ADOPTION OF REPORTS

The Committee considered the following reports:

A. REPORT ON THE BIOMEDICAL ENGINEERS BILL 2015

The report was adopted after being proposed by the Hon. Raphael Otaalo, M.P and Seconded by the Hon.Dahir Mohammed with the amendment that:

1. The word Board be replaced with "Council"
2. The Membership of the Council to include a representative from the Engineers' Board of Kenya.
3. The representation of the biomedical engineering professionals be reduced from three to two.

B. REPORT ON PRE-PUBLICATION SCRUTINY COMMENTS ON THE CLINICAL OFFICERS (TRAINING, REGISTRATION AND LICENSING) BILL, 2015.

The Committee Considered and adopted the report after being proposed by the Hon. Stephen M. Mule, M.P. and seconded by Hon. Hassan Aden Osman, M.P.

C. REPORT PRE-PUBLICATION SCRUTINY COMMENTS ON THE OCCUPATIONAL THERAPIST (TRAINING, REGISTRATION AND LICENSING) BILL, 2015.

The Committee Considered and adopted the report after being proposed by the Hon. Kamande Mwangi, M.P. and seconded by Hon. Stephen M. Mule, M.P. as follows:

D. REPORT ON THE CONSIDERATION OF THE PETITION BY KENYA NATIONAL UNION OF NURSES ON THE HEALTH BILL, 2015

The Committee Considered and adopted the report after being proposed by the Hon. Dr. Naomi Shaban, M.P. and seconded by Hon. Raphael M. Otaalo, M.P.

MIN. NO. DCH 19/2016 ANY OTHER BUSINESS

1. Universal Healthcare Sub- Committee

The Hon. Stephen M. Mule informed the Committee that the subcommittee on Universal Health care was ready to present its report to the Committee.

The Committee Resolved that the matters be slotted as a Committee agenda and a meeting be scheduled and that the Ministry, the USAID and the Consultant, Mr. Muchiri be invited to appear before the Committee during the said meeting.

2. Access to Kenyatta National Hospital (KNH) Private Wing

The Hon. Dr. Naomi Shaban informed the Committee that the new Civil Servants medical Scheme provides for access to the KNH private wing for all Civil Servants. However, due to a memorandum entered into between the Chief Executive Officers of KNH and the National Hospital Insurance fund, Civil Servants below Job Group M are being denied access to the KNH private wing.

Members also raised concerns over the high cost of treatment at the KNH private wing, which is higher than private hospitals.

The Committee resolved that the Cabinet Secretary Public Service Commission, Cabinet Secretary Health, and the Chief Executive Officers, KHN and NHIF be invited to appear before the Committee to discuss the provision of services to civil servants at KHN, the memorandum between KNH and NHIF, and the cost of treatment at the KHN Private Wing.

MIN. NO. DCH 20/2016

ADJOURNMENT

There being no other business the meeting was adjourned at 12.54 pm.

SIGNED.....


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

DATE:.....

16 / 02 / 2016

