

APPENDIX

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REPUBLIC OF KENYA



PARLIAMENT
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KENYA NATIONAL ASSEMBLY

ELEVENTH PARLIAMENT – THIRD SESSION

THE DEPARTMENTAL COMMITTEE
ON
HEALTH

REPORT ON THE PETITION ON NON-PAYMENT OF THE CLINICAL OFFICERS
INTERNS

DIRECTORATE OF COMMITTEE SERVICES
CLERK'S CHAMBER
PARLIAMENT BUILDINGS
NAIROBI

AUGUST, 2015



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1.0 PREFACE

It is my pleasant duty to table the Report of the Departmental Committee on Health on its consideration of the Petition on the Non-Payment of Clinical Officers Interns pursuant to Standing Order 227(2).

1.1 Committee Mandate

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

- 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 analyze 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.

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

1.2 Committee Membership

The Committee Comprises of the following members:

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. James Murgor, M.P.
5. The Hon. Dr. James Nyikal, M.P.
6. The Hon. Dr. James O. Gesamĩ, M.P.
7. The Hon. Dr. Naomi Shaban, M.P.

8. The Hon. Dr. Stephen Wachira, M.P.
9. The Hon. Dr. Susan Musyoka, M.P.
10. The Hon. Hassan Aden Osman, M.P.
11. The Hon. James Gakuya, M.P.
12. The Hon. John Nyaga Muchiri, M.P.
13. The Hon. Michael Onyura, M.P.
14. The Hon. Paul Koinange, M.P.
15. The Hon. Stephen M. Mule, M.P.
16. The Hon. Zipporah Jesang, M.P.
17. The Hon. Alfred Agoi, M.P.
18. The Hon. Christopher Nakuleu, M.P.
19. The Hon. Dr. Dahir D. Mohamed, M.P.
20. The Hon. Dr. Eseli Simiyu, M.P.
21. The Hon. Dr. Enoch Kibunguchy, M.P.
22. The Hon. Dr. Patrick Musimba, M.P.
23. The Hon. Alfred Outa, M.P.
24. The Hon. Joseph O. Magwanga, M.P.
25. The Hon. Kamande Mwangi, M.P.
26. The Hon. Leonard Sang, M.P.
27. The Hon. Mwahima Masoud, M.P.
28. The Hon. Mwinga Gunga, M.P.
29. The Hon. Raphael Milkau Otaalo, M.P.

1.3 Consideration of the Petition on the Non-Payment of Clinical Officers Interns.

The Petition on non-payment of Clinical Officers interns was presented to Parliament by Hon. Dr. Joyce Laboso, MP on behalf of the petitioners on 24th July, 2014. The Petition was then committed to the Committee on Health for consideration. The Petitioners prayed that Parliament to among other things advise the Ministry of Health, the Public Service Commission and the National Treasury to provide budgetary scheme for clinical officers' interns.

The Petitioner prayed to Parliament to address the following issues:-

1. Declare the discrimination of payment of internship allowance unconstitutional;
2. Implore the Ministry of Health Services in collaboration with the Ministry of Finance and the Public Service Commission to create posts and a permanent budgetary scheme for the clinical officers interns;
3. Recommend to the government to pay allowances for all clinical officer interns without any discrimination whatsoever with immediate effect;

The Committee while considering the petition held a meeting with the Petitioners, the Ministry of Health and the Public Service Commission to deliberate on the issues

raised by the petitioners. It should be noted that the National Treasury, though invited did not send a representative to the said meeting.

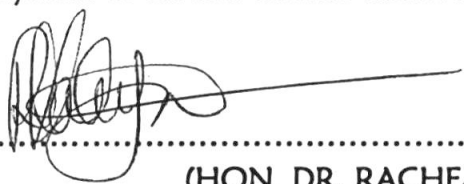
1.4 Committee Observations and Recommendations

The Committee noted that there is need the Ministry of Health and the Public Service Commission to come up with a policy of handling interns both in the public and private sector. Further, the Committee noted that the Government needs to consult with the training institutions to incorporate the internship in the last year of the student so as to alleviate the burden from parents in supporting the student into the extra period of learning during the internship.

1.5 Acknowledgement

The Committee is grateful to the Offices of the Speaker and the Clerk of the National Assembly for the logistical and technical support accorded to it during its Sittings. I appreciate the Committee Members for their major contribution in the preparation of this Report.

It is therefore my pleasure and privilege, on behalf of the Departmental Committee on Health, to table its Report in the House on the Consideration of the Petition on the Non-Payment of Clinical Officers Intern Pursuant to Standing Order 227 (2).

Signed..........Date.....26/8/2015.....
(HON. DR. RACHEAL NYAMAI, M.P.)

CHAIRPERSON,
DEPARTMENTAL COMMITTEE ON HEALTH

2.0 BACKGROUND

Clinical Officers (C.Os) are middle level health personnel who offer a wide range of medical services - curative, preventive, promotive and rehabilitative- in all parts of the country. The Clinical Officers supplement the work of medical doctors at all levels of healthcare – from health centers (where they are in charge), County and Provincial Hospitals to Referral Teaching Hospitals. Historically, clinical officers have been known by several other titles, including hospital attendants and hospital assistants and later assistant medical officers and certified clinical officers.

Today, the training, registration and licensing of all clinical officers is regulated by the Clinical Officers Council (COC), which was established by an Act of Parliament – the Clinical Officers (Training Registration & Licensing) Act Cap 260 of 1989. The COC works to ensure that clinical officers are trained to address current health needs and deliver high quality health services.

2.1 Training of Clinical Officers

While the training of Clinical Officers started in 1928 with hospital-based certificate programs, today clinical officers are trained in 35 institutions across Kenya. Several universities offer clinical medicine training at degree level, these include Mt. Kenya University, Egerton University, Jomo Kenyatta University of Agriculture and Technology (JKUAT) and Kenya Methodist University (KEMU). Diploma in Clinical Medicine and Surgery takes three years to complete while the Bachelor of Clinical Medicine and Community Health is a four-year course.

To date, the COC has registered over 13,000 clinical officers to practice in Kenya. The Ministry of Health, through the Clinical Officers Council (COC) accredits training institutions, and approves the syllabi of the universities and colleges. The Kenya Medical Training College (KMTTC), also under the Ministry of Health, has campuses in regional teaching hospitals and trains the majority of clinical officers

2.2 Clinical Officers Internship Program

All students trained in approved training institutions are registered with the Council which assesses the students trained both locally and abroad. After graduating from Medical Training College, Clinical Officers are required to undergo a mandatory one-year internship training aimed at providing them with clinical mentorship as well as sharpening their clinical acumen. This internship program is part of Training as stipulated in Clinical Officers (Training, Registration and Licensing) Act, Cap 260.

It is therefore mandatory for all newly qualified Clinical Officers to undergo internship for the prescribed period of 12 months as provided for in the rules governing Training, Registration and Licensing for Clinical Officers. Internship training is offered in selected Government and faith-based hospitals, which have been assessed, approved and accredited by the Ministry of Health. Currently there are 77 approved internship centers. The internship involves supervised rotations in the major clinical departments namely casualty, medicine, paediatrics, surgery, obstetrics and gynecology. They are supervised by consultants in the respective fields who ensure that they can practice clinical medicine safely before signing them off for registration. Upon successful completion of the internship programme, the officers are registered by the Clinical Officers Council.

Currently clinical officers with diplomas are not paid internship allowances as there is no policy to support this. However with devolution of health services, some counties pay the interns monthly stipends. This has not been harmonized as some counties pay them monthly allowances ranging from Kshs. 2,000 to Kshs. 5,000 while others do not pay anything at all.

It is also important to note that graduate clinical officers (with degrees) and graduate nurses get internship allowances from the government same as the nursing graduates.

3.0 MEETING WITH THE PETITIONERS AND THE STAKEHOLDERS

On 19th February, 2015, the Committee met with the Kenya Union of Clinical Officers, the Ministry of Health and the Public Service Commission to address the issues raised by the Petitioners. It should be noted that, the National Treasury despite having been invited to the meeting, did not attend. The stakeholders made their submissions as follows;

3.1 Kenya Union of Clinical Officers

The Clinical Officers' interns presented their submission to the Committee as follows that:-

- i. Clinical officer interns after qualifying from college or university are compelled to undergo a one year compulsory internship to be lincensed. The internship therefore makes the interns indentured learners as per the Employment Act, 2007. The interns are therefore entitled to fair and humane labour treatment during the period of internship as per the Act;
- ii. The interns have tried to address the issue through the office of the Cabinet Secretary and the Deputy President, but have not been provided with a satisfactory response;
- iii. Some interns who are posted in far flung areas suffer due to lack of money for upkeep which would easily lead them to indulge in malpractice to survive.
- iv. The interns are exposed considering that they are usually the first people to handle patients. A case in point is at Moi Teaching and Referral Hospital where a clinical officer intern died after handling a patient with Hepatitis B;
- v. The interns had resulted to industrial action to attract the attention of the relevant offices with no success so far;

vi. With the matter not pending in any court of law or any legal body, the petitioners therefore prayed that Parliament;

- a) Declare the discrimination of payment of internship allowance unconstitutional;
- b) Implore the Ministry of Health Services in collaboration with the Ministry of Finance and the Public Service Commission to create posts and a permanent budgetary scheme for the clinical officers interns;
- c) Recommend to the government to pay allowances for all clinical officer interns without any discrimination whatsoever with immediate effect.

3.2 Public Service Commission

Alice A. Otwala, the Secretary to Public Service Commission briefed the Committee on the issue of interns as follows:-

- i. The Commission is responsible for terms and condition of service and that there were no clear policies for interns. However, the Commission is looking into this matter of interns to address it as long as the Treasury facilitates the Public Service Commission;
- ii. The Commission appreciated that although the interns are considered to be undergoing training, they perform actual work in hospitals offering services to the Ministry of Health for which the Government would be required to hire staff to undertake;
- iii. The Commission is awaiting the passage of the Public Service Commission Bill pending before the Cabinet for approval whose passage in Parliament will govern how internship programmes in Government will be handled;
- iv. The Commission is in the meantime embarking on developing guidelines to assist all state organs in developing customized internship policies for their sectors;
- v. The Ministry of Health should liaise with the National Treasury to provide adequate budgetary allocation for clinical officers interns after which the Commission expects the Ministry to present a

proposed clinical officers' interns' establishment for approval by the Commission.

3.3 Principal Secretary, Ministry of Health

In response to the petition of the Kenya Union of Clinical Officers on no- payment of allowances for clinical officers interns the Principal Secretary submitted as follows:-

- i. Internship is a prescribed period of compulsory hands on training for health professionals, which is a legal requirement to practice after graduation from an approved training institution. It helps the interns to develop and improve skills and competencies necessary to practice and serve the public in a safe and satisfactory way. The internship is requisite for registration as practitioner;
- ii. Before 1998 when structural Adjustment Programmes (SAP) came into place, internship for clinical officers was done while in employment. Up to that time, health care providers were posted directly upon graduating from an approved training institution. With the introduction of SAPS, Clinical officers had to undertake internship on their own;
- iii. The interns who are currently under payroll include; Medical officers, Dentists Pharmacists, Graduate Nurses, and Graduate Clinical officers. However, all diploma holders in the various disciplines are not on payroll including clinical officers, public health officers, community oral health officers and BSC public health officers;
- iv. The Ministry appreciated the request by the clinical officers to pay the diploma holders, however budgetary limitations impede this request as total requirement for payment of all interns would be KSH 4,446,300,420.00. Only Kshs. 2,772,500,400.00 is allocated for the posts approved by Public Service Commission and budgeted

for, leaving a deficit of Kshs. 1,673,500,400.00 for those who are on payroll;

- v. The Ministry has developed a draft policy on internship which addresses issues of fairness, equity and assignment of roles and responsibilities among others;
- vi. The Ministry therefore recommends that the Public Service Commission creates internship posts for diploma holders. In the interest of equity and fairness, the Ministry recommends that the National Treasury provides funds to pay the diploma holders who undergo internship;
- vii. The Ministry of Health requested for time to consult with the training institutions to come up with a lasting solution on the issue of internship.

4.0 COMMITTEE'S OBSERVATIONS

The Committee observed the following that;

- i. There is need to consult with the training institutions to establish the possibility of incorporating internship during the last year of training to avoid the extra burden on parents who are forced to support student during internship.
- ii. Since the clinical officers' course is a practical course which does not require a separate internship period, after qualifying, the trainees need to be registered and posted as was the practice previously.
- iii. The Clinical Officers are usually the first medical workers to attend to the patients in most cases. In this regard, most interns offer services which should be offered by salaried staff which is tantamount to government sourcing for cheap labour.

4.0 COMMITTEE RECOMMENDATIONS

The Committee having considered the submissions by concerned parties made the following recommendations that;

- 1) The Ministry of Health, the Public Service Commission and the National Treasury should urgently formulate a policy on how to address the issue of Clinical Officers interns specifically and other interns in general due to lack a policy on the same.
- 2) The Ministry of Health should report to the Committee on the outcome of the discussions with the National Treasury and the Public Service Commission on the payment of interns within 90 days from the date of tabling of this Report.
- 3) The requirement for internship for Clinical Officer trainees should be abolished as the clinical officers' course is a practical course which does not require a separate internship period, after qualifying. Therefore the trainees need to be registered and posted as had been the practice previously.

ANNEXTURES

1. MINUTES
2. PETITION

MINUTES OF THE 5TH SITTING OF THE DEPARTMENTAL COMMITTEE ON HEALTH HELD IN MEMBERS' LOUNGE, PARLIAMENT BUILDINGS ON TUESDAY 17TH FEBRUARY, 2015, 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 Murgor, M.P.
4. The Hon. Christopher Nakuleu, M.P.
5. The Hon. David Karithi, M.P.
6. The Hon. Dr. Dahir D. Mohamed, M.P.
7. The Hon. Dr. Eseli Simiyu, M.P.
8. The Hon. Dr. Enoch Kibunguchy, M.P.
9. The Hon. Leonard Sang, M.P.
10. The Hon. Mwinga Gunga, M.P.
11. The Hon. Dr. James O. Gesami, M.P.
12. The Hon. Dr. Stephen Wachira, M.P.
13. The Hon. Dr. Susan Musyoka, M.P.
14. The Hon. Hassan Aden Osman, M.P.
15. The Hon. James Gakuya, M.P.
16. The Hon. Raphael Milkau Otaalo, M.P.
17. The Hon. Kamande Mwangi, M.P.
18. The Hon. Michael Onyura, M.P.
19. The Hon. Zipporah Jesang, M.P.

ABSENT WITH APOLOGY

1. The Hon. Paul Koinange, M.P.
2. The Hon. Dr. James Nyikal, M.P.
3. The Hon. John Nyaga Muchiri, M.P.
4. The Hon. Stephen M. Mule, M.P.
5. The Hon. Alfred Agoi, M.P.
6. The Hon. Dr. Patrick Musimba, M.P.
7. The Hon. Alfred Outa, M.P.
8. The Hon. Dr. Naomi Shaban, M.P.
9. The Hon. Joseph O. Magwanga, M.P.
10. The Hon. Mwahima Masoud, M.P.

IN ATTENDANCE

National Assembly Secretariat

- | | | |
|--------------------|-----|------------------------|
| 1. Esther Nginyo | - . | Third Clerk Assistant |
| 2. Dennis Mogare | - | Third Clerk Assistant. |
| 3. Hassan A. Arale | - | Third Clerk Assistant. |
| 4. Peter Mwaura | - | Legal Counsel |
| 5. Reyhan Mohammed | - | Research Officer |
| 6. Moses Kariuki | - | Sergeant at Arms. |

MIN. NO. DCH 20/2015: PRELIMINARIES

The Chairperson called the meeting to order at 10:28 am and a prayer was said by Hon. Dr. Robert Pukose, M.P. The Chairperson then welcomed Members to the meeting and the agenda for the meeting was adopted as proposed by Hon. Dr. Robert Pukose, M.P. and seconded by Hon. Dr. James Murgor, M.P.

MIN. NO. DCH 21/2015: CONFIRMATION OF MINUTES

Minutes of the 4th Sitting that was held on 12th February, 2015 were confirmed as a true record of the proceedings having been proposed by Hon. Kamande Mwangi, MP and seconded by Hon. Raphael Milkau Otaalo, MP.

MIN. NO. DCH 22/2015: MATTERS ARISING

Under MIN. DCH 17/2015 (2) On the victimization of Ministry of Health officers who provided information to the Committee Members during a visit to the Malaba Border, it was resolved that the Committee be furnished with the employees' details including their names and the where they were transferred to.

Under MIN. DCH 17/2015(6) on the Joint Tetanus Vaccine tests, it was resolved that the Members of the Joint Committee be invited to appear before the Committee on Tuesday, 24th February, 2015 to brief it on its report findings.

Under MIN. DCH 17/2015(7) on the payment of the Clinical Officers interns, it was resolved that the Committee to meet with the Kenya Medical Training Centre to agree on a sustainable solution for the interns.

MIN. NO. DCH 23/2015: BRIEFING BY THE LEGAL COUNSEL ON THE PETITION ON THE NON-PAYMENT OF THE CLINICAL OFFICER INTERNS

The Committee was informed that the Petition presented to Parliament by the Kenya Union of Clinical Officers on the non-payment of the clinical officers interns did not meet the threshold of a petition in line with Standing Order 220. It was noted that the Petition did not contain the subject matter and that it had not been

signed. The Committee however resolved that since the petitioners had been invited to appear before it on Thursday, 19th February, 2015, the petitioner to be informed on the same, and that the issues raised by the petitioners to be addressed in the said meeting.

MIN. NO. DCH 24/2015: CONSIDERATION OF THE REPORTS ON : MENTAL HEALTH BILL, 2014 AND IN VITRO FERTILIZATION BILL, 2014

The Committee considered the report on the Mental Health Bill, 2014 and unanimously adopted it after being proposed by Hon. Dr. Robert Pukose, MP and seconded by Hon. Raphael Milkau Otaalo, MP.

The Committee also considered the report on In Vitro Fertilization Bill, 2014 and unanimously adopted it after being proposed by Hon. Dr. Robert Pukose, MP and seconded by Hon. Dr. Nyikal, MP.

MIN. NO. DCH 25/2015: ANY OTHER BUSINESS

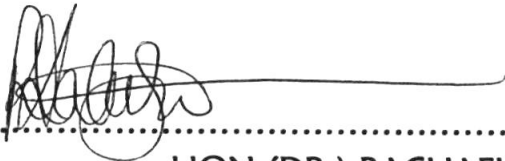
The following matters were raised under this agenda item;

1. Hon. Shakeel Shabbir, MP had petitioned the Committee to consider the matter of Irregular registration of a private eye centre – eye and U-Kenya. It was resolved that Hon. Shakeel appears before Thursday, 19th February, 2015 to brief the Committee on the same.
2. It was agreed that the Committee report writing retreat in Mombasa be held from Thursday, 26th February, 2015 to 1st March, 2015.

MIN. NO. DCH 26/2015 ADJOURNMENT

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

SIGNED.....



HON (DR.) RACHAEL NYAMAI, M.P

CHAIRPERSON

DATE:.....

24 / 03 / 2015

MINUTES OF THE 6TH SITTING OF THE DEPARTMENTAL COMMITTEE ON HEALTH HELD IN 5TH FLOOR CONTINENTAL HOUSE , PARLIAMENT BUILDINGS ON TUESDAY 19TH FEBRUARY, 2015, 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 Murgor, M.P.
4. The Hon. Christopher Nakuleu, M.P.
5. The Hon. David Karithi, M.P.
6. The Hon. Dr. Dahir D. Mohamed, M.P.
7. The Hon. Leonard Sang, M.P.
8. The Hon. Dr. James O. Gesami, M.P.
9. The Hon. Hassan Aden Osman, M.P.
10. The Hon. Raphael Milkau Otaalo, M.P.
11. The Hon. Kamande Mwangi, M.P.
12. The Hon. Michael Onyura, M.P.
13. The Hon. Zipporah Jesang, M.P.
14. The Hon. John Nyaga Muchiri, M.P.
15. The Hon. Stephen M. Mule, M.P.
16. The Hon. Joseph O. Magwanga, M.P.
17. The Hon. Paul Koinange, M.P.
18. The Hon. Alfred Outa, M.P.
19. The Hon. Dr. Naomi Shaban, M.P.
20. The Hon. Mwahima Masoud, M.P.
21. The Hon. Dr. Eseli Simiyu, M.P.
22. The Hon. Dr. Enoch Kibunguchy, M.P.
23. The Hon. Dr. Susan Musyoka, M.P.

ABSENT WITH APOLOGY

24. The Hon. Alfred Agoi, M.P.
25. The Hon. Dr. James Nyikal, M.P.
26. The Hon. Dr. Stephen Wachira, M.P.
27. The Hon. James Gakuya, M.P.
28. The Hon. MwingaGunga, M.P.
29. The Hon. Dr. Patrick Musimba, M.P.

IN ATTENDANCE

1. Hon Shakeel Shabbir, MP - Friend of the Committee.

MINISTRY OF HEALTH OFFICIALS

1. Dr Khadija Kasachoon - Principle Secretary of Health
2. Kilu A.M -DCHAO
3. Khadiagala B -SCFO

- | | |
|------------------------|-----------------|
| 4. Micah K. Kisoo | -CCO |
| 5. M.S Gitari | -DDHRM |
| 6. Kevin Mwalimu | -C01 |
| 7. Mary Boniface | -Kuco Treasurer |
| 8. Victor R Mburo | -RCO |
| 9. Moses M nyaata | -RCO |
| 10. Laurence Ondede | -RCO |
| 11. Austin OduorOtieno | -RCO |
| 12. Tom MichiraNyaka | -RCO |
| 13. Gibore M. George | -RCO |
| 14. Eric Ondieki | -RCO. |

PUBLIC SERVICE COMMISSION:

- | | |
|--------------------|-------------------------------|
| 1. Alice A. Otwala | -Secretary |
| 2. Joan Mathayo. | -HRM/PSC |
| 3. Jackline Mahani | -Chief commission counsel PSC |

NATIONAL ASSEMBLY SECRETARIAT

- | | | |
|--------------------|---|------------------------------|
| 1. Esther Nginyo | - | Third Clerk Assistant |
| 2. Dennis Mogare | - | Third Clerk Assistant. |
| 3. Hassan A. Arale | - | Third Clerk Assistant. |
| 4. Peter Mwaura | - | Legal Counsel |
| 5. Reyhan Mohammed | - | Research Officer |
| 6. Moses Kariuki | - | Sergeant at Arms. |

MIN.NO. DCH 27/2015: PRELIMINARIES.

The Chairperson called the meeting to order at 10.28 am and a word of prayer was said by Hon. Christopher Nakuleu, MP. The Chairperson then called on all present to do self-introduction.

MIN.NO.DCH 28/2015: CONSIDERATION OF PETITION ON NON-PAYMENT OF THE CLINICAL OFFICERS INTERNS BY THE KENYA UNION OF CLINICAL OFFICERS.

The Petition on non-payment of Clinical Officers interns was presented to Parliament by Hon. Dr. Joyce Laboso, MP on behalf of the petitioners. The Petition was then committed to the Committee on Health to address their prayers through which they petitioned Parliament to among other things advise the Ministry of Health, the Public Service Commission and the National Treasury to provide budgetary scheme for clinical officers interns.

In this regard, the Kenya Union of Clinical Officers, the Public Service Commission, and the Ministry of Health appeared before the Committee to respond to the issues raised in the petition. They made presentation as follows;

1. KENYA UNION OF CLINICAL OFFICERS:

The clinical officers' interns presented their grievances to the committee through their representative as follows that;

- i. Clinical officer interns after qualifying from college of university are compelled to undergo a one year compulsory internship to be licensed. The internship therefore makes the interns indentured learners as per the Employment Act, 2007. The interns are therefore entitled to fair and humane labour treatment during the period of internship as per the Act.
- ii. The interns have tried to address the issue through the office of the Cabinet Secretary and the Deputy President, but have not been provided with a satisfactory response.
- iii. Some interns who are posted in far flung areas suffer due to lack of money for upkeep which would easily lead them to indulge in malpractice to survive.
- iv. It should be noted that the interns are exposed considering that they are usually the first people to handle patients. A case in point is at Moi Teaching and Referral Hospital where a clinical officer intern died after handling a patient with Hepatitis B.
- v. The interns had resorted to industrial action to attract the attention of the relevant offices with no success so far.
- vi. Since the matter is not pending in any court of law or any legal body the petitioners prayed that Parliament;
 - a) Finds this discrimination in payment of internship allowances unconstitutional
 - b) Finds it prudent to advise the ministry of health service in collaboration with the ministry of finance and public service commission to create post and permanent budgetary scheme for the clinical officers' interns
 - c) Advise the government to pay allowances for all clinical officer interns without any discrimination whatsoever with immediate effect.

2. PUBLIC SERVICE COMMISSION:

Alice A. Otwala the secretary to Public Service Commission briefed the Committee on the issue of interns as follows that;

- i. The Commission is responsible for terms and condition of service and that there were no clear policies for interns. However, the Commission is looking into this matter of interns to address it as long as the Treasury facilitates the Public Service Commission.
- ii. The Commission appreciated that although the interns are considered to be undergoing training, they perform actual work in hospitals offering services to the Ministry of Health for which government would be required to hire staff to undertake.
- iii. The Commission is awaiting the passage of the Public Service Commission Bill pending before the Cabinet for approval whose passage in Parliament will govern how internship programmes in government will be made.
- iv. The Commission is in the meantime embarking on developing guidelines to assist all state organs in developing customized internship policies for their sectors.
- v. The Ministry of Health should liaise with the National Treasury to provide adequate budgetary allocation for clinical officers interns after which the Commission expects the Ministry to present a proposed clinical officers interns establishment for approval by the Commission.

3. PRINCIPAL SECRETARY OF HEALTH RESPONSE.

In response to the petition of the Kenya Union of Clinical Officers on no- payment of allowances for clinical officers interns the Principal Secretary submitted as follows;

- i. Internship is a prescribed period of compulsory hands on training for health professionals, which is a legal requirement to practice after graduation from an approved training institution. It helps the interns to develop and improve skills and competencies necessary to practice and serve the public in a safe and satisfactory way. The internship is requisite for registration as practitioner.
- ii. Before 1998 when structural Adjustment Programmes (SAP) came into place, internship for clinical officers was done while in employment. Up to that time, health care providers were posted directly upon graduating from an approved training institution. With the introduction of SAPS, Clinical officers had to undertake internship on their own.

- iii. The interns who are currently under payroll include; Medical officers, Dentists Pharmacists, Graduate Nurses, and Graduate Clinical officers. However, all diploma holders in the various disciplines are not on payroll including clinical officers, public health officers, community oral health officers and BSC public health officers.
- iv. The Ministry appreciated the request by the clinical officers request to pay the diploma holders, however budgetary limitations impede this request as total requirement for payment of all interns would be KSH 4,446,300,420.00. Only Kshs. 2,772,500,400.00 is allocated for these are posts approved by public service commission and budgeted for leaving a deficit of Kshs. 1,673,500,400.00 for those who are on payroll.
- v. The ministry has developed a draft policy on internship which addresses issues of fairness, equity and assignment of roles and responsibilities among others.
- vi. The Ministry therefore recommends that the Public Service Commission creates internship posts for diploma holders. In the interest of equity and fairness, the Ministry recommends that the National treasury provides funds to pay the diploma holders who undergo internship.
- vii. The Ministry of Health requested for requested for time to consult with the training institutions to come up with a lasting solution on the issue of internship.

4. MEMBERS OBSERVATION

Members observed that,

1. There is need to consult with the training institutions to establish the possibility of incorporating internship during the last year of training to avoid the extra burden on parents who are forced to support student during internship.
2. The establishment of the degree course for clinical officers was itself a mistake which has led to the neglect of the health personnel who have attained diplomas. There is therefore need to consider the clinical officers who are diploma holders as they play a critical role in the health sector.
3. As consultations and decisions are made by the government on the issue of internship, there is need to harmonize treatment for interns both in public and private facilities as it was noted that in some areas, interns pay to do internship in the private sector.

MIN.NO.DCH 29/2015: HON SHABIR SHAKEER PRESENTATION ON THE IRREGULAR REGISTRATION OF PRIVATE EYE CENTRE AND U-KENYA.

Hon. Shakeel Shabbir, MP appeared before the Committee and briefed it on the matter of the Irregular registration of a Private Eye Clinic – Eye and You Clinic owned by Dr. Samira Soni. He informed the Committee that;

The Ophthalmological society of Kenya had raised concerns in respect of the irregular registration of a Private Eye Centre called Eye and U Kenya and have raised the following issues;

- i. The Eye and U Kenya has been established by Indian doctors who are practicing ophthalmology in Kenya without being properly vetted or undergoing the necessary training in Kenya which requires undergoing two years of supervised work in Kenyan established eye centers.
- ii. These Indian doctors are not registered Kenyan ophthalmologists. In fact “Eye and U Kenya” has not approached or recruited any registered Ophthalmologist.
- iii. There are six Indian Ophthalmologists whom have set up practice under the guise of being investors yet they are not registered to practice in Kenya.
- iv. Another doctor, Dr Samira Soni who incidentally has no specialist or recognition in ophthalmology is the only locally based physician at the Eye and U centre. In fact she is an Indian citizen but with a valid Kenyan work permit. Dr soni declined to render supervised services at a Kenya Hospital for 2 years as is the standard requirement by the Kenya Medical Practitioners and Medical Board. As such there is doubt as to her status to practice medicine in Kenya.
- v. Registering and recognition of the Eye and U Kenya centre is at best irregular and it will lead to the Kenyan doctor and the Kenyan patient property addressed we may see a deterioration of the practice of ophthalmology in Kenya.
- vi. The Ophthalmological Society of Kenya has been question the irregularity but no action has been taken by the Medical Practitioners and Dentists Board so as to ensure that good services are offered with no malpractice.
- vii. Ophthalmologists who have raised concerns about the matter have been threatened.

MEMBERS OBSERVATION:

- i. There is need to ensure that regulations are followed without partiality especially in the health care sector.
- ii. 2. There is need for the persons who have been threatened over this matter to write to the Committee as such threats were tantamount to threats to the health care system in the country.
- iii. there is need to establish the alleged unequal treatment by the Medical Practitioners and Dentists Board.

- iv. should there be cases of professional negligence on any one by the doctor in question, the doctor should be sued.

WAY FORWARD:

The Committee resolved to invite Ophthalmological Society of Kenya, Medical Practitioners and Dentists Board and Eye and U Kenya to appear before the Committee on Thursday 26th February 2015 to clarify on the allegations raised in the petition.

MIN.NO. DCH 30/2015: ANY OTHER BUSINESS

The following matters were raised under this agenda item;

- i. Invitation by the Ministry of East Africa for 2 Committee Members to attend a meeting in Kampala, Uganda on the 5th Annual East African Health Scientific Conference was read to the Members by the Chair. The Committee nominated Hon Dr James Nyikal and Hon Kamande Mwangi to attend.
- ii. Members reiterated the need to have a retreat with the Ministry on Managed Equipment Services in a bid to clearly understand the whole project.
- iii. Hon Kamande Mwangi that the nurses who were employed under the Economic Stimulus Package were being fired in the counties despite the decision by the Council of Governors to absorb such nurses after the expiry of their contracts. The Ministry therefore needed to intervene.

MIN.NO. DCH 31/2015

ADJOURNMENT

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

SIGNED..........

HON (DR.) RACHAEL NYAMAI, M.P

CHAIRPERSON

DATE:..... 24 / 03 / 2015


MINUTES OF THE 60TH SITTING OF THE DEPARTMENTAL COMMITTEE ON HEALTH HELD IN 2ND FLOOR COMMITTEE ROOM, CONTINENTAL HOUSE, ON THURSDAY 20TH AUGUST, 2015, 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. Michael Onyura, M.P.
4. The Hon. David Karithi, M.P.
5. The Hon. Leonard Sang, M.P.
6. The Hon. John Nyaga Muchiri, M.P.
7. The Hon. Dr. Naomi Shaban, M.P.
8. The Hon. James Gakuya, M.P.
9. The Hon. Raphael Milkau Otaalo, M.P
10. The Hon. Kamande Mwangi, M.P.
11. The Hon. Fred Outa, M.P.
12. The Hon. Dr. James Murgor, M.P.
13. The Hon. Dr. Stephen Wachira, M.P.
14. The Hon. Paul Koinange, M.P
15. The Hon. Dr. Enoch Kibunguchy, M.P.
16. The Hon. Stephen M. Mule, M.P.
17. The Hon. Hassan Aden Osman, M.P.
18. The Hon. Dr. Eseli Simiyu, M.P.

ABSENT WITH APOLOGY

1. The Hon. Dr. James Nyikal, M.P.
2. The Hon. Dr. James O. Gesami, M.P.
3. The Hon. Dr. Susan Musyoka, M.P.
4. The Hon. Joseph O. Magwanga, M.P.
5. The Hon. Mwinga Gunga, M.P.
6. The Hon. Christopher Nakuleu, M.P.
7. The Hon. Dr. Dahir D. Mohamed, M.P
8. The Hon. Alfred Agoi, M.P
9. The Hon. Dr. Patrick Musimba, M.P.
10. The Hon. Mwahima Masoud, M.P.
11. The Hon. Zipporah Jesang, M.P.

IN ATTENDANCE

National Assembly Secretariat

1. Mr. Dennis Mogare - Clerk Assistant III

MIN.NO. DCH 250/2015: PRELIMINARIES.

The Chairperson called the meeting to order at 10.35 am. Thereafter, a prayer was said by Hon. Dr. Stephen Wachira, M.P. The Chairperson then welcomed all Members present to the meeting.

MIN.NO. DCH 251/2015: ADOPTION OF THE AGENDA

The Agenda was adopted as drafted after being proposed and seconded by Hon. Dr. Robert Pukose, M.P. and Hon. Dr. James Murgor, M.P. respectively.

MIN.NO. DCH 252/2015: CONSIDERATION AND ADOPTION OF A REPORT ON A PETITION BY INTERLINK INDUSTRIES ON DELAY OF PAYMENT FOR THE CONSTRUCTION OF AN OUTPATIENT BLOCK AT IGEANIA SUB- DISTRICT HOSPITAL.

The Report was adopted (with amendments) after being proposed and seconded by Hon. Raphael Milkau Otaalo, M.P and Hon. Dr. Stephen Wachira, M.P. respectively.

The amendment effected was that the following be part of the recommendations that: "The Committee recommends that the petition together with the Report from the Committee be forwarded to the Senate for Consideration."

MIN.NO. DCH 253/2015: CONSIDERATION AND ADOPTION OF A REPORT ON A PETITION BY THE KENYA ASSOCIATION OF PRIVATE HOSPITALS ON RECOGNITION BY THE NATIONAL HEALTH INSURANCE FUND

The Report was adopted (with amendments) after being proposed and seconded by Hon. Dr. Eseli Simiyu, M.P. and Hon. Kamande Mwangi, M.P. respectively.

The amendments effected included that:

- a) The following be included in the section on committee observations that:

- i. "The NHIF had employed one actuarial scientist and had no insurance experts. Over time, the same had been outsourced at exorbitant rates and this needed to stop."
 - ii. "Alexander Forbes actuarial study produced a wanting report and the relationship between NHIF and Alexander Forbes ought to be investigated by the Committee and the subsequent recommendations be forwarded to relevant state organs for action."
- b) Recommendation (ii) should be amended to read as follows: "On the issue of intervention to compel the NHIF to involve all other bona fide healthcare providers in consultations on service contracts, the committee compels the fund to involve all other bona fide healthcare providers in consultations on service contracts. Equally, both the KAPH and the NHIF should continue engaging during their regular meetings in order to formulate a mutually beneficial scheme which will facilitate the achievement of universal health coverage for the Kenyan citizens in line with Article 43 of the constitution."
 - c) Recommendation (iii) should be amended to read as follows: "NHIF should employ adequate actuarial scientists and insurance experts and conduct a rigorous actuarial study after identifying a consultant through competitive bidding."
 - d) The following should be included as part of the Committee Recommendations that: "The National Assembly Health Committee should set up a sub-committee to make recommendations on amendments to the NHIF act to provide for universal healthcare."

**MIN.NO. DCH 254/2015: CONSIDERATION AND ADOPTION OF A
REPORT ON A PETITION ON NON- PAYMENT
OF ALLOWANCES FOR CLINICAL OFFICERS
INTERNS.**

The Report was adopted (with amendments) after being proposed and seconded by Hon. Dr. Naomi Shaban, M.P. and Hon. Kamande Mwangi, M.P. respectively.

The amendments effected included that:

- a) Observation (i) should be amended to read that: "since the clinical officers' course is a practical course which does not require a separate internship

period, after qualifying, the trainees need to be registered and posted as was the practice previously.

- b) Recommendation (ii) should be amended to read as follows: “ The Ministry of Health should report to the Committee on the outcome of the discussions with the National Treasury and the Public Service Commission on the payment of interns **within 90 days** from the date of tabling of this Report.
- c) Introduce a recommendation that reads as follows: “The requirement for ~~internship for clinical officer trainees should be abolished as the clinical~~ officers’ course is a practical course which does not require a separate internship period, after qualifying; the trainees need to be registered and posted as was the practice previously.

**MIN.NO. DCH 255/2015: CONSIDERATION AND ADOPTION OF A
REPORT ON THE CONSIDERATION OF A
PETITION BY MR. BERNARD KIPROTICH
CHERUIYOT REGARDING REVIEW OF HEALTH
CARE SYSTEM**

The Report was adopted (with amendments) after being proposed and seconded by Hon. James Gakuya, M.P. and Hon. Hassan Aden Osman, M.P. respectively.

The amendments effected included that:

- a) Include an observation that reads as follows: “The Committee commends the courage and forthrightness of the petitioner, who is a health worker, for taking upon himself the responsibility to bring to the fore matters affecting the health sector in Kenya.”
- b) Include the following as part of the Committee Recommendations: “There is an urgent need for the national government to expand training opportunities for all cadres of healthcare professionals.”

DCH 256/2015 ANY OTHER BUSINESS

1. The Committee needed to adopt a calendar of activities to undertake during the long recess that was scheduled from 27th August, 2015.

2. The Committee needed to adopt a calendar of activities to undertake during the long recess that was scheduled from 27th August, 2015.
3. The delegation to represent the Committee during the United Nations General Assembly 2015 meeting was selected and had the following members:
 - i. The Hon. Dr. Racheal Nyamai, M.P.
 - ii. The Hon. Mwachima Masoud, M.P.
 - iii. The Hon. Hassan Aden Osman, M.P.
 - iv. The Hon. Dr. James O. Gesami, M.P.
 - v. The Hon. Paul Koinange, M.P.
 - vi. The Hon. Joseph O. Magwanga, M.P.
 - vii. The Hon. Alfred Agoi, M.P.

MIN.NO. DCH 257/2015

ADJOURNMENT

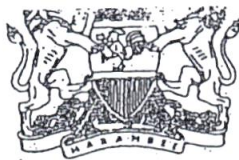
There being no other business the meeting was adjourned at 12.32 pm.

SIGNED.....

HON (DR.) RACHAEL NYAMAI, M.P

CHAIRPERSON

DATE:.....



REPUBLIC OF KENYA

ELEVENTH PARLIAMENT- (SECOND SESSION)

THE NATIONAL ASSEMBLY

PETITIONS

(No.046 of 2014)

CONVEYANCE OF A PETITION REGARDING NON-PAYMENT OF
ALLOWANCES FOR CLINICAL OFFICERS INTERNS

Honourable Members,

Standing Order 225(2) (b) requires that the Speaker reports to the House, any Petition other than those presented through a Member.

I therefore wish to convey to the House that my office has received a Petition regarding the Non-Payment of Allowances to Clinical Officers serving as Interns under the Ministry of Health.

The Petition is signed by five Executive Committee Members of the Kenya Union of Clinical. Among other prayers, the Petitioners are praying that the National Assembly intervenes in compelling the Ministry of Health to pay all allowances to clinical officer interns and to set aside a budget scheme for the aforementioned interns.

Honourable Members,

As per Standing Order 227 (1), this Petition shall stand committed to the Departmental Committee on Health. The Committee is requested to consider the Petition and report its findings to the House within sixty days in accordance with Standing Order 227 (2).

Thank you!

THE HON. (DR.) JOYCE LABOSO, MGH, MP
DEPUTY SPEAKER OF THE NATIONAL ASSEMBLY

July 24th 2014



KENYA UNION OF CLINICAL OFFICERS

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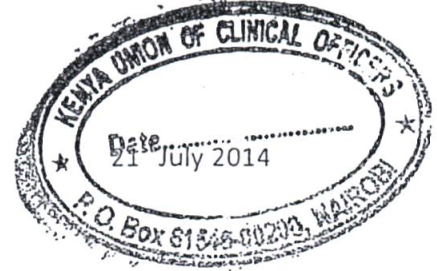
0750-973234, 0724-227358

Our ref: kuco/4/2014

Your ref:

TO,
The Clerk Kenya National Assembly
Parliament Buildings
P O Box 41842 - 00100
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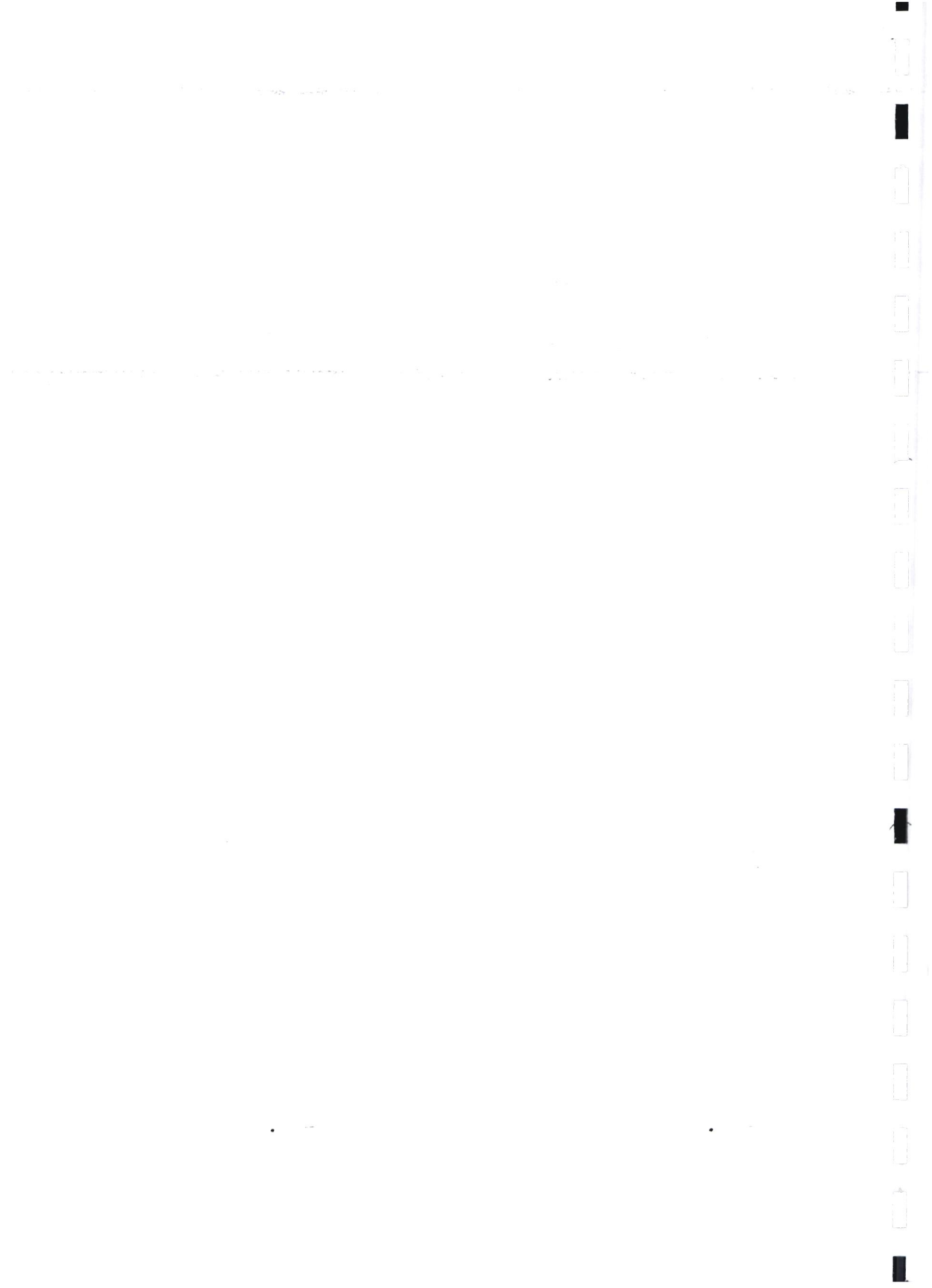
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① Mr. Njunge
Please process.
Sicki
22/7/14

THE KENYA UNION OF CLINICAL OFFICERS PUBLIC PETITION
TO THE NATIONAL ASSEMBLY ON UNPAID INTERNSHIP.

② Ms. Muga
In process
22/7/14



28. Every person has inherent dignity and the right to have that dignity respected and protected.

43. (1) Every person has the right—

(b) to accessible and adequate housing, and to reasonable standards of sanitation;

(c) to be free from hunger, and to have adequate food of acceptable quality;

(d) to clean and safe water in adequate quantities;

(e) to social security

(3) The State shall provide appropriate social security to persons who are unable to support themselves and their dependants.

Failure to provide payment or allowance for this interns also contravenes the Employment act revised edition 2012 [2007] CHAPTER 226 which states in the definition of terms and article 31(1);-

- **"Contract of service"** means an agreement, whether oral or in writing,

And whether expressed or implied, to employ or to serve as an employee for a period of time, and includes a contract of apprenticeship and indentured learnership but does not include a foreign contract of service to which Part XI of this Act applies.

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

Article 31. Housing

(1) An employer shall at all times, at his own expense, provide reasonable housing accommodation for each of his employees either at or near to the place of employment, or shall pay to the employee such sufficient sum, as rent, in addition to the wages or salary of the employee, as will enable the employee to obtain reasonable accommodation.

An intern, being a clinical officer who is qualified from the college or university attended, graduated and independent of the institution is compelled by the ministry of health to undergo a compulsory 1 year internship to get licensed and are thus by default indentured learners as per the EMPLOYMENT ACT 2007 and therefore entitled to fair and humane labour treatment as the internship year is equivalent to a contract of indentured learnership as in the employment act 2007.

THAT;

- We have tried to address this issue through the office of the cabinet secretary and that of the deputy president without any response and where the response was provided unsatisfactory.
- That the interns had resulted to industrial action to attract the attention of the relevant offices with no success so far.

THAT;

This matter is not pending in any court of law or any legal body.

HEREFORE your humble petitioner(s) Pray that Parliament—

- I. Finds this discrimination in payment of internship allowance unconstitutional.
- II. Finds it prudent to advise the ministry of health services in collaboration with the ministry of finance and public service commission to create posts and a permanent budgetary scheme for the clinical officer interns.
- III. Advices the government to pay allowances for all clinical officer interns without any discrimination whatsoever with immediate effect.

