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THE NATIONAL ASSEMBLY

THIRTEENTH PARLIAMENT - THIRD SESSION - 2024

PUBLIC PETITIONS COMMITTEE

PARLIAMENT
OF KENYA
LIBRARY

REPORT ON-

CONSIDERATION OF PUBLIC PETITION NO. 6 OF 2024 REGARDING DELAYS IN POSTING MEDICAL INTERNS, ABSORPTION OF UNIVERSAL HEALTH COVERAGE (UHC) CONTRACT STAFF, CONCLUSION OF COLLECTIVE BARGAINING AGREEMENT (CBAS) AND RECOGNITION OF AGREEMENT IN THE HEALTH SECTOR IN THE COUNTRY, BY HON. (DR.) ROBERT PUKOSE, MP, MEMBER FOR ENDEBES CONSTITUENCY

NOVEMBER 2024

THE NATIONAL ASSEMBLY PAPERS LAID	
DATE: 27 NOV 2024	DAY: Wednesday
TABLED BY: Hon' Njirōd M'Gai (Chairperson)	
CLERK AT THE TABLE: Lomale	

Directorate of Legislative & Procedural Services
Clerk's Chambers
Parliament Buildings
NAIROBI

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CHAIRPERSON'S FOREWORD

On behalf of the Public Petitions Committee and pursuant to the provisions of Standing Order 227, it is my pleasant privilege and honour to present this House the Report of the Public Petitions Committee regarding Delays in posting medical interns, Absorption of Universal Health Coverage (UHC) Contract staff, conclusion of Collective Bargaining Agreement (CBAs) and recognition of agreement in the Health Sector in the Country

The Petition was presented to the House pursuant to Standing Order No. 225 (2) (a) by the Hon. (Dr.) Robert Pukose, MP, Member for Endebes Constituency. The Petitioners prayed regarding posting of graduate interns for mandatory internship, transition health workers contracted under the UHC into permanent and pensionable terms, absorption of all other contracted health workers into permanent or pensionable service, addressing discriminatory disparities in compensation of medical interns, and conclusion of pending CBAs and recognition agreements.

In consideration of the Petition, the Committee collected the views from the Petitioner, various health sector unions, societies and associations, Council of Governors, Ministry of Labour and Social Protection, Ministry of Health, and the National Treasury.

The Committee observed that recommends that the Ministry of Health in collaboration with Public Service Commission (PSC), SRC and all relevant stakeholders to fast-track the comprehensive policy proposal to guide on the management of internship in the health sector to address concerns about postings and disparities witnessed in the payment of stipends to interns. The Ministry of Health to present the policy proposal to the Committee on Health within ninety (90) days of tabling of this report.

The Committee is thankful to the Offices of the Speaker and the Clerk of the National Assembly for the logistical and technical support offered during the consideration of the Petition. The Chairperson expresses gratitude to the Members of the Committee and the Secretariat for their devotion and commitment to duty during the consideration of the Petition.

On behalf of the Committee and pursuant to the provisions of Standing Order 199, I now wish to table the report before the House.


HON. NIMROD MBITHUKA MBAI, M.P.
CHAIRPERSON, PUBLIC PETITIONS COMMITTEE

Date: 20/11/2024

LIST OF ABBREVIATIONS AND ACRONYMS

CBA	Collective Bargaining Agreement
CHERP	COVID-19 Health Emergency Response Project
COG	Council of Governors
COTU	Central Organization of Trade Unions
ELRC	Employment and Labour Relations Court
KMPDU	Kenya Medical Practitioners, Pharmacists and Dentists Union
KUNAD	Kenya Union of Nutritionists and Dieticians
MOH	Ministry of Health
PSC	Public Service Commission
RTWF	Return To Work Formula
SRC	Salaries & Remuneration Commission
UHC	Universal Health Coverage

PART ONE

1. PREFACE

1.1. Establishment and Mandate of the Committee

The Public Petitions Committee is established under the provisions of Standing Order 208A with the following terms of reference:

- a) considering all public petitions tabled in the House;
- b) making such recommendations as may be appropriate with respect to the prayers sought in the petitions;
- c) recommending whether the findings arising from consideration of a petition should be debated; and
- d) advising the House and reporting on all public petitions committed to it.

1.2. Committee Membership

The Public Petitions Committee was constituted in October 2022 and comprises the following Members:

Chairperson

Hon. Nimrod Mbithuka Mbai, M.P.
Kitui East Constituency

United Democratic Alliance (UDA)

Vice Chairperson

Hon. Janet Jepkemboi Sitienei, M.P.
Turbo Constituency

United Democratic Alliance (UDA)

Hon. Patrick Makau King'ola, M.P.
Mavoko Constituency

**Wiper Democratic Movement-Kenya
(WDM-K)**

Hon. Edith Vethi Nyenze, M.P.
Kitui West Constituency

**Wiper Democratic Movement-Kenya
(WDM-K)**

Hon. Ernest Kivai Ogesi Kagesi, M.P.
Vihiga Constituency

Amani National Congress (ANC)

Hon. Maisori Marwa Kitayama, M.P.
Kuria East Constituency

United Democratic Alliance (UDA)

Hon. Joshua Chepyegon Kandie, M.P.
Baringo Central Constituency

United Democratic Alliance (UDA)

Hon. John Walter Owino, M.P.
Awendo Constituency

Orange Democratic Movement (ODM)

Hon. Bernard Muriuki Nebart, M.P.
Mbeere South Constituency

Independent

Hon. Bidu Mohamed Tubi, M.P.
Isiolo South

Jubilee Party (JP)

Hon. Caleb Mutiso Mule, M.P.
Machakos Town Constituency

Maendeleo Chap Chap Party (MCCP)

Hon. John Bwire Okano, M.P.
Taveta Constituency

**Wiper Democratic Movement-Kenya
(WDM-K)**

Hon. Peter Mbogho Shake, M.P.
Mwatate Constituency

Jubilee Party (JP)

Hon. Sloya Clement Logova, M.P.
Sabatia Constituency

United Democratic Alliance (UDA)

Hon. Suzanne Ndunge Kiamba, M.P.
Makueni Constituency

**Wiper Democratic Movement-Kenya
(WDM-K)**

1.3. Committee Secretariat

The Public Petitions Committee is facilitated members of the secretariat:

Lead Clerk
Mr. Ahmed Kadhi
Principal Clerk Assistant II

Ms. Anne Shibuko
First Clerk Assistant

Ms. Miriam Modo
First Clerk Assistant

Mr. Willis Obiero
Clerk Assistant III

Mr. Isaac Nabiswa
Legal Counsel II

Ms. Patricia Gichane
Legal Counsel II

Mr. Martin Sigei
Research Officer III

Ms. Roselyne Njuki
Senior Serjeant-at-Arms

Mr. Paul Shana
Serjeant-at-Arms

Mr. Calvin Karungo
Media Relations Officer III

Mr. Peter Mutethia
Audio Officer

PART TWO

2. BACKGROUND TO THE PETITION

2.1. Introduction

1. Public Petition No. 6 of 2024 regarding Delays in Posting Medical Interns, Absorption of Universal Health Coverage (UHC) Contract Staff, Conclusion of Collective Bargaining Agreement (CBAs), and Recognition of Agreement in the Health Sector in the Country was presented to the House by Hon. (Dr.) Robert Pukose, MP on
2. The Petitioners averred that quality healthcare is the lifeline of a country's prosperity and that the maintenance of an appropriate complement of medical practitioners under suitable terms and conditions is fundamental to quality healthcare.
3. That Articles 27 and 41 of the Constitution as read together with the Employment Act, 2007 provide for the rights of employees and fair labour practices.
4. The African Charter on Human and People's Rights entitles everyone to equal protection of the law including the right to the respect of the dignity inherent in a human being and the right to receive information and to express and disseminate their opinions within the law.
5. Despite the elaborate safeguards in international law, the Constitution and statutes, medical practitioners in Kenya have been subjected to unfair labour practices, which have heightened since 2020.
6. In April 2020, following the outbreak of COVID-19, the Government recruited a number of health workers on one-year Universal Health Coverage (UHC) internship contracts to boost efforts on achievement of universal health as well as to aid in the fight against COVID-19.
7. The contracted health workers were released from service after one year, yet they had already been assigned personal numbers in the Ministry of Health. Their exit created a shortage that is yet to be addressed and has also made it hard for them to get any other employment in the public service since they are deemed to be in employment because they have personal numbers.
8. The Public Service Commission, the Human Resource Policies and Procedures Manual for the Public Service (2016) recognize public sector internship programs, which is both a legal requirement and prerequisite for licensure and independent practice in the case of medical practitioners.

9. Whereas the Ministry of Health has a duty to facilitate posting of graduate medical practitioners for mandatory internship, it is yet to post medical interns who ought to have been posted in September 2023.
10. Further, the Ministry, which is obligated to compensate medical interns through a standardised salary/stipend, has been applying different terms. For instance, while all other interns are paid based on a job group in the health sector, Diploma Clinical Officers are only paid a meagre allowance that can hardly cater to their basic needs during the internship period.
11. The health staff under UHC contract have been earning a salary equivalent to half of what their colleagues employed under county governments have been earning despite working in the same environment.
12. The delayed internship posting and subsequent licensure deny affected graduates the opportunity to get exposure to uninterrupted skills' mastery that would equip them to contribute to health service delivery in the country.
13. The plight of intern graduates remains unresolved despite recommendations by the Senate for absorption of UHC and other staff contracted during COVID-19. Further that the Kericho Declaration Agreement signed on 18th October 2023 by the medical staff Unions, the Ministry of Health and Council of Governors committed the Ministry of Health and Council of Governors (CoG) to facilitate absorption and mainstreaming of national government contract staff, including the COVID-19/UHC staff into employment.
14. The health workers currently under the UHC program are about three months to the end of their one-year extension, yet both county governments and the national government have not shown any plans of transitioning them and converting their terms of service to permanent employment as per the Kericho Declaration.
15. Further, the health workers under UHC contract have not received gratuities for their previous three-year terms served and no communication regarding the reasons for the delay and when to expect the said gratuities.
16. While all other unions in other sectors have concluded CBAs with their respective employers, the unions in the health sector have been subjected to frustrations and what appears to be deliberate intent to deny them their right to the CBAs.
17. That Petitioners' efforts to resolve these matters with Ministry of Health and other relevant bodies have not fruitful despite their numerous requests for audience and engagements.

2.2. Prayers

18. The Petitioners prayed that the Committee—

- (i) Investigates the reasons for the failure by the Ministry of Health to facilitate the posting of graduate interns for mandatory internship since September 2023 and recommends immediate posting of the affected interns and institution of measures to avert in internship posting henceforth;
- (ii) Inquires into the circumstances surrounding the failure by the Ministry of Health to transition health workers contracted under the Universal Health Coverage (UHC) in 2020 to permanent and pensionable terms in accordance with the Kericho agreement of 18th September 2023;
- (iii) Intervenes to cause the Ministry of Health to absorb all the Universal Health Coverage (UHC) health workers and other contracted health workers into permanent or pensionable service in order to address the acute shortage in the health sector;
- (iv) Recommends to the Ministry to immediately address discriminatory disparities in compensation of medical interns and instead apply fair remuneration as per the Salaries and Remuneration Commission terms pegged on job grades;
- (v) Recommends that the pending CBAs and Recognition Agreements be concluded expeditiously; and
- (vi) Makes any other recommendations it deems fit in addressing the plight of the Petitioners.

PART THREE

3. STAKEHOLDERS' SUBMISSIONS ON THE PETITION

3.1. Petitioners

19. On 19th March 2024, the Hon. (Dr) Robert Pukose, MP accompanied by the various health sector unions, societies and associations appeared before the Committee to make submissions. The health sector unions, societies and associations present included:

- (i) Kenya Medical Practitioners and Dentists Union (KMPDU)
- (ii) Kenya Union Of Clinical Officers (KUCO)
- (iii) Kenya National Union of Nurses (KNUN)
- (iv) Kenya National Union of Pharmaceutical Technologists and Officers (KNUPT)
- (v) Kenya National Union of Medical Laboratory Officers (KNUMLO)
- (vi) Kenya Union Of Nutritionists and Dietitians (KUNAD)
- (vii) Kenya Environmental & Public Health Practitioners Union (KEPHPU)
- (viii) Universal Health Coverage (UHC) Interns

20. The petitioners made submissions on the various issues of concern including, delay in posting of medical interns, absorption of UHC contract staff, realisation of the UHC, CBA and recognition agreement in the health sector, and intimidation and victimization of union leaders.

Delay in posting of medical interns

21. Internship is a compulsory requirement for medical practitioners, including pharmacists, dentists, clinical officers, nurses, and laboratory technicians. Moreover, interns comprise not only fresh graduates but also experienced health practitioners. Once assigned to various places of work, interns provide services after obtaining temporary licenses from their respective regulatory councils.

22. Over the past two years, there has been a noticeable delay in posting medical interns, with some waiting a year or two after graduating before being assigned. For example, the Kenya Medical Practitioners, Pharmacists and Dentists Union (KMPDU) negotiated a CBA with the Ministry of Health, approved by the Salaries and Remuneration Commission (SRC), stipulating that medical officers should be posted for internships within 30 days of clearance by their regulatory councils. However, significant delays have persisted before they can commence service.

23. Interns constituted approximately 27-30 percent of the medical workforce in the counties. Consequently, delays in posting them after the preceding cohort completes its internship led to severe shortages in service delivery.

24. The Ministry of Health proposed salary payments to interns in a letter to the SRC, which responded with recommendations that led to reductions in stipends. For instance, stipends for doctor interns were slashed by 91 percent, while those for clinical officers and nurses were reduced by up to 50 percent. This occurred despite a negotiated CBA submitted to court.
25. Furthermore, interns are included in the staff establishment by the Public Service Commission (PSC), enabling their posting and allowing the Ministry of Health to plan and budget accordingly. However, the Ministry has inconsistently paid some interns according to their job group while neglecting to pay others.

Absorption of UHC contract staff

26. The country has been striving to ensure that every Kenyan can access healthcare regardless of their socioeconomic status or ability to pay for medical services. As part of this effort, the Ministry of Health engaged a significant number of healthcare workers starting in 2019. These staff, under the Universal Health Coverage (UHC) contract, courageously served on the frontlines during the COVID-19 pandemic, risking their lives.
27. There were three categories of UHC staff: first, those employed in 2020, totalling around 8,500, contracted for three years. Their service term was extended for an additional year based on the advisory of the Public Service Commission (PSC), with an indication that they would transition to permanent and pensionable terms after this extension. However, while counties extended the contracts of these officers in writing for three years, their payroll reflected only a one-year extension, leading to confusion on how to address the issue.
28. The second category of UHC staff, known as UHC interns, served between 2020 and 2021 for a year. Their concerns have never been addressed, and they have not received their gratuity. The third category comprised individuals referred to as the COVID-19 response team, numbering about 900. They worked briefly during the pandemic but did not receive their gratuity upon completion of their service.
29. Contrary to Section 5 of the Labour Relations Act, which stipulates equal pay for equal value of work, these different categories of workers performed duties in the same departments as their colleagues but received only half or a third of their salaries.
30. Additionally, these workers were denied the ability to plan for their futures as they were on contract terms, preventing them from pursuing career progression opportunities like their counterparts on permanent and pensionable terms.

Realisation of the Universal Health Coverage

31. Despite the government's pledge to bolster the healthcare workforce, there has been a decline in numbers. The decrease stemmed from natural attrition, resignations, and the migration of healthcare professionals to more favourable employment opportunities elsewhere.
32. Both national and county governments have failed to implement a strategy for annual recruitment of healthcare workers. The committee should propose a mechanism compelling national and county government to hire health workers, aligning with the goal of achieving Universal Health Coverage (UHC), similar to recruitment practices observed in the teaching profession and security sector.
33. Many counties have exceeded the Controller of Budget's (COB) ceiling points, which stipulate that no county should allocate more than 35 percent of its budget towards wages and remuneration. However, numerous counties have surpassed this threshold, with some exceeding 40 percent.

CBA and recognition agreement in the health sector

34. Despite Kenya's ratification of Convention C98, which guarantees the right to collective bargaining as outlined in Article 41 of the Constitution, unions have faced a concerning trend. Without issuing strike notices, they have encountered difficulties in getting their CBAs signed by national and county governments.
35. Notably, nurses and clinical officers have exerted significant effort over the years, yet their employers have failed to sign CBAs. In the case of doctors, despite the signing of a CBA intended to run from 2017 to 2021, 90 percent of its articles remained unimplemented throughout its four-year cycle.
36. Articles within the 2017-2021 CBA have been systematically violated, including provisions regarding the posting of medical interns, basic salary increments, post-graduate training for all cadres, and medical cover.
37. The medical allowance, ranging between Kshs. 4000 and Kshs. 6000 in 2011, was relinquished and replaced by comprehensive coverage. However, with the enactment of the new Social Health Insurance Act, only 40 percent of civil servants will be covered, leaving healthcare providers unable to afford the care they deliver.
38. Employers should be compelled to honour recognition agreements with unions, eliminating the need for strike notices to negotiate CBAs.
39. In the health sector, only three unions have recognition agreements, leaving others in limbo as employers bypass their legal right to recognition agreements. The committee should intervene to ensure justice for these unions.

3.2. Kenya Union of Nutritionists and Dieticians

Vide a letter Ref: KUNAD/TU/PSC&DN/VOL.A (1)/2024 dated 22nd March 2024, the General Secretary of KUNAD, Mr. Odero Michael Ouma submitted as follows—

Issues 1- Internship Stipend

40. The Cabinet Secretary in charge of Ministry of Health/ Director General Health & Director General Finance, the Chairperson SRC & Chief Executive Officer, Kenya Nutritionists and Dietitians Institute should Act on the court order awarding stipend of Kshs25,000 per month as per the Public Service Commission manual and harmonize Nutrition Interns posting procedure and stipend payment - START budgeting. This is in accordance with the Public Service Commission internship manual, Nutrition Act 2007, Kenya Nutritionists and Dietitians Internship Regulations and Guidelines.

Issue 2- Unemployment and Poor Staffing of Nutritionists and Dieticians in the Country

41. KUNAD recommends that Kenya Nutritionists and Dietitians Institute recommendations on human resource and workforce need as per Population growth and need be effected. This will honour the Country's commitment to achieving vision 2030 & SDGs. This is in accordance with Kenya Nutritionists and Dietitians Institute Scope of practice, Public Service Commission Human Resource Manual, Kenya National Bureau of Statistics 2019 census report, Kenya Health Workforce Report 2020, Kenya Demographic.

Issue 3 - Risk allowance and uniform allowances.

42. KUNAD recommends the award of Nutritionists Risk and Uniform allowances based on their point of service delivery. This is in accordance with Nutritionists and Dietitians act no.18 of 2007 and subsequent amendments, Health Act No.5 of 2019 and subsequent amendments. Kenya Nutritionists and Dietitians Training Manual, Kenya Clinical Nutrition Manual 2016 and Kenya Nutritionists and Dietitians Scope of practice.

Issue 4- Recognition Agreements at both National and County governments

43. The Cabinet Secretary for the Ministry of Health and the Council of Governors should Respect labour rights of all employees and ensure implementation of Labour Relations Act No. 14 of 2007 and the African Charter on Human Rights.

Issue 5- UHC staffing, absorption into Permanent and Pensionable terms

44. KUNAD recommends the review the discriminative terms, implementation of the Senate report and recommendations on UHC staffs and stop addressing human resource issues.

Issue 6- Biased and unreasonable classification of Nutrition and Dietetics Professionals

45. Nutrition plays key role in both clinical and community health services (Clinical manual and parenteral feeding manual). Therefore, nutrition be included as a key pillar in clinical practice as per the Kenya Nutritionists and Dietitians Institute manual.

3.3. The Ministry of Labour & Social Protection

On 20th March 2023, the Cabinet Secretary, Ministry of Labour & Social Protection, Hon. Florence Bore appeared before the Committee and submitted as follows:

46. Owing to the fact that the issues raised in the petition were ongoing national issues, the Ministry would provide a further detailed response to the petition.

47. The Kenya Medical Practitioners, Pharmacists and Dentists Union (KMPDU) issued a strike notice on 28th November 2022 and in response, the Cabinet Secretary appointed a Conciliator who attempted to reconcile the parties.

48. Given the complex nature of the dispute there was a need to have a broad-based intervention by various government agencies, from whom key information and opinion is required. The process was prolonged and not concluded amicably. The Conciliator's report of the negotiation process was released on 6th March 2024.

49. The KMPDU recently issued a notice of strike on 6th March 2024 expressing intention to proceed on industrial action within seven days of the notice. There were several issues raised by the Union including non-implementation of the parties CBAs, negotiation of the new CBAs, and failure to implement court decisions and directives.

50. In response, the Cabinet Secretary appointed a Conciliation Committee on 11th March 2024. In the meantime, the employer proceeded to Court and under Case Number ELRCPET/E032/2024 and obtained the following orders—

- a) restraining orders against KMPPDU proceeding on industrial action;
- b) the Conciliation Committee appointed by the Cabinet Secretary to expeditiously proceed for the union and the concerned public service employers to conclude a Tripartite Memorandum of Understanding on the Minimum Safety services the members of the Union shall provide in the event of a strike;

c) to institute a whole-nation approach towards resolving the instant outstanding dispute and to achieving a sustainable solution of the ongoing negotiation and conciliation to incorporate—

1. Head of Public Service
2. Cabinet Secretary, Ministry of Finance
3. Cabinet Secretary for Ministry of Public Service
4. Cabinet Secretary for Labour and Social Protection
5. Salaries & Remuneration Commission (SRC)
6. Public Service Commission (PSC)
7. Council of Governors (COG) and each of the 47 County Governors
8. The Federation of Kenya Employers
9. Central Organization of Trade Unions (COTU)
10. All National Referral Hospitals and the parties to the suit

51. The role of Ministry was to bring the parties on the table for them to have an agreement and negotiations. The Conciliation Committee was ongoing with meetings to have an agreement between the parties.

3.4. The Ministry of Health

Vide a letter REF: MOH/ADM/VOL.III/208 and dated 3rd July 2024, the Cabinet Secretary, Hon. Nakhumicha Wafula forwarded written submission to the Petition as follows—

Issue 1: Conclusion of the Collective Bargaining Agreement

Kenya National Union of Nurses

52. The Ministry of Health has concluded CBA negotiations with the Kenya National Union of Nurses. The proposed CBA has been forwarded to Salaries and Remuneration Commission (SRC) with all the support documentation for review and advice before the parties can sign.

53. The proposed CBA contains enhancement of Health Risk Allowance for Nurses from Kshs.3,750 to Kshs.5,000 as well as uniform allowance from Kshs. 10,000 to Kshs. 15,000. The National Treasury provided a written commitment to fund the proposed enhancements.

Kenya Union of Clinical Officers

54. The Ministry of Health is almost done with the CBA negotiations with the Kenya Union of Clinical Officers. The only remaining item on enhancement of health risk allowance where the union is demanding the same to be enhanced from Kshs.3,000 to Kshs.15,000. In the current stage of negotiations, the union is fixated on the

Kshs.15,000 rate. The MOH awaits budgetary commitment from the National Treasury concerning the proposed enhancement.

KMPDU

55. The Ministry has engaged KMPDU on negotiations of new CBA with a total of four meetings. The union gave its proposal, and the Ministry of Health gave its counter proposal. The union have indicated to us that they are keen to proceed with the negotiations.

Issue 2: Delay in the posting of medical interns

56. Following the release of the Salaries and Remuneration Commission Circular Ref. No. SRC/TS/19(III) of 13th March, 2024 the spelt out payable stipend in respect to all the cadres of the Healthcare workers interns, the Ministry of Health issued offer letters dated 18th March, 2024 to all the interns premised on the SRC advisory and requiring them to have commenced their internship as from 2nd April, 2024. Further, the Ministry of Health circulated widely posting of the above captioned intern cadres through publishing in The Star Newspaper of 10th April, 2024.

57. The Employment and Labour Relations Court (ELRC) in Eldoret issued orders on 18th April, 2024 under Petition No. E003 of 2024 suspending the SRC advisory circular requiring maintenance of status quo before the SRC circular was issued on 13th March, 2024 as far as posting of interns was concerned.

58. The National Government through the Ministry of Health and the Kenya Medical Practitioners, Pharmacists and Dentists Union (KMPDU) executed a Return-to-Work Formula Agreement on 8th March, 2024 which among others spelt out the positions on internship by the Government and KMPDU. The Government indicated that the Intern Doctors discussion was the subject of the Court petition and as such be held in abeyance until the matter is heard and finally determined. On the other hand, KMPDU wanted immediate posting of interns in accordance with 2017-2021 CBA. Notwithstanding the two positions, the parties agreed to commence negotiations on the internship issue and conclude within sixty (60) days.

59. The Ministerial Return to Work Formula Implementation Committee has held meetings with the KMPDU officials. The Committee and the Union team led by Deputy Secretary General during a meeting held on 3rd June, 2024 reviewed the progress of implementation of all the items in the RTWF including the internship.

60. On 20th June, 2024, the RTWF implementation Committee met with Union team led by the Secretary General accompanied by Interns representatives where the two positions of GoK and KMPDU were reiterated and the union was keen on the outcome of Court deliberations on the case that had been scheduled for 27th June, 2024 which was rescheduled to 26th September, 2024.

61. KMPDU is agitating for posting of interns based on the 2017-2021 CBA where the union has no budgetary provision to cater for the resultant costs.

Issue 3: Absorption of UHC and CHERP staff into permanent and pensionable employment

62. The Public Service Commission approved extension of for UHC staff for a further period of two (2) years in line with the resolution of the Summit with effect from May, 2024 when the previous one (1) year contract lapsed. The National Treasury provided the Ministry of Health with Kshs.4.2 billion which was enough to cover the UHC costs under the current contract terms. Additional Kshs. 3.5 billion would be required to transition UHC staff to permanent and pensionable terms, the two levels of government were looking into mechanisms to be put in place before the expiry of the just extended contracts.

Issue 4: Medical cover for UHC staff

63. The UHC staff enjoy the NHIF standard cover as all other Kenyans.

Issue 5: Payment of gratuity for UHC staff

64. The gratuity was not included in the contract with the UHC staff. The provision was for a consolidated salary.

Issue 6: Enhancement of health risk allowance

65. The Ministry of Health is negotiating with Healthcare Workers Unions on the enhancement of the Health Risk allowance under the CBA framework where all the relevant stakeholders are participating including Salaries & Remuneration Commission and the National Treasury.

Issue 7: Review of internship policy

66. The draft policy is in place with external and internal stakeholder's validation was done, pending public participation process.

Issue 8: Recognition agreements for unionized health associations

67. The Ministry of Health has received requests for recognition agreements and has engaged the Lab Technician Union where they are currently verifying their submitted membership list as required under the Labour Relations Act.

3.5. Council of Governors

Vide a letter Ref: COG/6/40 Vol. 95 (65) and dated 1st July 2024, the Chief Executive Officer, Ms Mary Mwiti submitted a written response on the Petition as follows—

Issue 1: Internship under the UHC program

68. *Status Update:* The Ministry of Health through the Public Service Commission (PSC) recruited interns under the UHC program for one year with a view to offer young grandaunts an opportunity in the service. These interns were posted in the county health facilities for a period of one year and their stipend was paid by the Ministry of Health.

69. The internship was for a definite period of one year which ended. Additionally, the internship does not necessarily guarantee employment.

Issue 2: Delayed posting of Medical Interns

70. *Status Update:* Internship is part of the in-house training intended to expose medical workers to the world of work. It is also a mandatory post qualification requirement before the graduate doctors can be registered and licensed to practice. Posting of medical interns is the mandate of the Ministry of Health and therefore the Ministry is in a better position to address the matter. Additionally, the perennial delay in posting interns also affects smooth and uninterrupted service delivery in county health facilities where the interns train due to inadequate human resource in the county facilities.

71. Training is a function of the national government under the Ministry of Health. The Ministry to expedite posting of interns to facilitate their training clearance, registration and subsequent licensing to practice.

Issue 3: Disparity in the payment of stipends to interns (medical and clinical officers)

72. *Status Update:* Payment of internship stipend is the mandate of the Ministry of Health.

73. The Ministry of Health and Public Service Commission (PSC) to develop a comprehensive policy to guide on the management of internship in the health sector, this to include the stipend /payments payable.

Issue 4: UHC staff on a three-year contract

74. *Status Update:* In 2020, Governments County in collaboration with the Ministry of Health (MOH) and Public Service Commission (PSC) undertook recruitment of staff

of different cadres for a period of three (3) years, running from April 2022 to May 2023, under the Universal Health Care Program (UHC). The recruitment of a total of 9,681 health care workers was informed by gaps identified by county governments and shared with the MOH.

75. **Terms and Conditions:** The staff are supervised and managed by respective County Governments, but their payroll has been managed by the MOH since the inception of the program.

76. **Summit resolution:** On 12th February 2024, the Summit resolved that the Ministry of Health extends the contracts of the UHC staff for a further period of three years under the same terms and conditions to allow the two levels of government time to deliberate on the transition with clear modalities on the terms of employment.

77. However, PSC renewed the contracts for UHC for a period of one year which lapse between April and October 2024. MOH has further written to COG confirming the extension of UHC contracts for a further two years under the same terms. To date, the personnel emoluments for UHC remains with the Ministry of Health.

78. The Council received a copy of a letter from the Ministry of Health to the Public Service Commission on the transition of the staff under the UHC programme, absorption of the staff into permanent terms of employment by the respective County Public Service Boards.

79. **COVID-19 Surge Capacity Project (CHERP):** In 2020, PSC recruited 605 health care workers for management of the COVID 19 pandemic. Currently there are 441 Covid 19 health with an annual budget of 674 M workers working in the counties but remunerated by the Ministry of Health.

80. The three-year contracts will expire in the year. National Treasury advised the Ministry of Health to inform counties to absorb the 441 COVID 19 workers. County Governments are unable to absorb the aforementioned staff without the requisite budget.

81. The National Treasury to allocate through the budget FY 2024/2025 adequate budgetary provision to cater for the UHC and COVID -19 workers salary at the prevailing market rates including the attendant employment benefits such as medical insurance and pension contributions.

Issue 5: Collective Bargaining Agreements

82. *Status Update:* County Governments have recognized three unions in the health sector—

- (i) Kenya National Union of Nurses (KNUN) - December 2016
- (ii) Kenya Medical Practitioners and Pharmacists and Dentist Union - July 2017
- (iii) Kenya Union of Clinical Officers - December 2017

83. All County Governments have signed the Collective Bargaining Agreement of 2017-2021 with the Kenya Medical Practitioners and Pharmacist and Dentist Union. The negotiations for the CBA for 2017-2021 for KUCO and KNUN were not completed as parties did not agree on some monetary provisions provided therein. Therefore, there is no CBA executed between the Counties and the two unions. County Governments have not executed recognition agreement with KNUMLO.

84. County Governments are the employers of the members of trade unions, and therefore the respective unions are advised to initiate negotiations with the respective County Government for purposes of entering into the recognition agreement or signing of the CBAs. County governments are expected to undertake due diligence of the membership register to establish the membership in each county for purposes of entering into a Recognition Agreement as required by law.

Recognition agreements by 41 counties as the union has not met CoG hence only six counties have signed recognition agreements

85. The CoG recognizes the Kenya National Union of Medical Laboratory Officers (KNUMLO) is a new union and that most County Governments have not executed recognition agreements with KNUMLO.

86. Accordingly, the CoG has advised County Governments to undertake due diligence of the membership register presented to establish the union members in each county for purposes of entering into a recognition agreement as required by the law.

3.6. Ministry of National Treasury and Economic Planning

Vide a letter Ref: TNT/CONF 51/07 'I' (54) and dated 11th September, 2024, the Cabinet Secretary, Hon. CPA. John Mbadi submitted a written response to the Petition as follows—

Absorption of UHC Contract Staff

87. The Petition enquires on the transitioning of the UHC contract staff to permanent and pensionable terms in accordance with the Kericho Agreement of 18th September, 2023. The Government engaged the UHC contract staff on a three-year contract in 2020 to aid in the fight against the outbreak of the COVID 19 pandemic and boost the Governments efforts in achievement of Universal Health Coverage. The Government extended the contracts for a further one year following the lapse of the initial contract. This lapsed in May, 2024.

88. The Kericho Declaration Agreement between Medical Staff Unions and the Ministry of Health and Council of Governors committed to absorb and mainstream contract staff into employment. The UHC contract staff are posted in county facilities and

in this regard, the respective County Governments should consider absorbing the workers should they require their services.

Payment of Gratuity to UHC Contract Staff

89. The Government has proposed an allocation of Ksh.4.2 billion to Ministry of Health in the FY 2024/25 Budget for the UHC Contract Staff. This allocation will be utilized for payment of gratuities due to the UHC contract staff.

90. The petition also states that the health workers under UHC contract have been earning a salary equivalent to half of what their colleagues employed under County Governments earn. However, the UHC contract staff were on contractual basis under terms agreed upon with the Ministry and were not engaged on a permanent and pensionable terms.

Delays in posting Medical Interns

91. The petition requests for investigation into the reasons for failure by the Ministry of Health to facilitate the posting of graduate interns for mandatory internship since September, 2023 and recommends immediate posting of the affected interns.

92. The Ministry recognised that as part of the medical training, medical students are required to undertake a mandatory one-year post university internship before they are licensed to practice. To support implementation of this Programme, the Government allocated over Kshs.20.4 billion from FY 2019/2020 to FY 2023/24 and the same was disbursed as provided in Table 1 below:

F/Y	2019/20	2020/21	2021/22	2022/23	2023/24	TOTAL
Allocation	3,943,266,204	3,261,285,856	3,834,069,759	3,658,067,359	5,738,217,551	20,434,906,729
Actual Expense	3,943,266,204	3,261,285,856	3,834,069,759	3,658,013,665	3,433,118,620	18,129,754,104
Balance	-	-	-	53,694	2,305,098,931	2,305,152,625

93. In the FY 2023/24 Budget, the Ministry of Health was allocated KShs.5.7 billion to cater for the Internship Programme. This includes additional funding amounting to KShs.2.1 billion provided in the FY 2023/24 Supplementary Estimates No.1.

94. The Ministry proposed Kshs.3,700,000,000 in the FY 2024/25 Budget for the Ministry of Health to cater for the Internship Programme. To ensure sustainability of the Programme, the Ministry of Health engaged the Salaries Remuneration Commission on the rates payable under the Internship Programme which has been reviewed as provided in Table 2 below:

S/No.	Intern	Initial Stipend per month	Revised Stipend per month (Min)	Revised Stipend per month (Max)
1	Medical, Dentists, Pharmacists	206,400	47,000	70,000
2.	BSc Nursing	106,350	35,000	50,000
3.	BSc Clinical	115,400	35,000	50,000
4.	Diploma Clinical	15,000	27,000	35,000

95. With the revised rates the Ministry of Health has adequate resources to cater for placement of the 3,759 interns for three (3) months w.e.f. 1st April 2024. The Government is committed to ensuring the engagement of medical interns within the prevailing resource constraints. In addition, the Ministry recommends that the review of the National Guidelines on Internship Programme be fast tracked to accommodate Voluntary/self-sponsored Internship in Private Health Facilities.

CBA with Health Workers

96. The Government is committed to implementing the Collective Bargaining Agreements with Health Workers. To show this commitment, the National Government has been providing training to eligible postgraduate medical officers from 2018 as provided for in the 2017 CBA with health unions.

97. This is also in compliance with the Constitutional requirement for the National Government to undertake capacity building and technical assistance to the Counties. The National Government has been providing financial support to cater for post graduate training of the medical officers. Between the FY 2019/2020 and FY 2023/24 the Government allocated a total of Kshs.846,800,000 to cater for training of doctors of which Kshs.770,300,000 was disbursed as provided in Table 3 below.

F/Y	2019/20	2020/21	2021/22	2022/23	2023/24	Total
Allocation	179,623,417	143,421,075	162,745,691	91,397,200	269,590,710	846,778,093
Expenditure	176,996,287	143,406,804	171,556,683	112,810,603	165,540,530	770,310,907
Variance	2,627,230	14,271	21,413,403	21,413,403	104,050,180	76,467,186

98. In the FY 2024/25 Budget, the Government has proposed Kshs.407,000,000 to the Ministry of Health to cater for post graduate training of the medical officers. This is contrary to the Union assertions that no funding has been provided to cater for training from 2018 cohort.

99. The petition avers that the Government has been frustrating the right of Doctors to a CBA. This should be taken up with the specific institutions under the Ministry of Health and with the respective County Governments.

PART FOUR

COMMITTEE OBSERVATIONS

100. Having collected the views from the various stakeholders, the Committee made the following observations, that—

- (i) Internship for health practitioners is a mandatory requirement for registration and subsequent licensing to practice.
- (ii) The allocation of Kshs.20.4 billion from FY 2019/2020 to FY 2023/2024 towards posting of graduate interns for mandatory internship has not been sufficient to accommodate all the graduate interns coming through the years.
- (iii) The delay in posting of interns affects the smooth running and interrupts service delivery in county health facilities as the facilities have inadequate human resources.
- (iv) KMPDU was agitating for posting of interns based on the 2017-2021 CBA for which the Ministry of Health had no budgetary provisions to cater for the resultant costs. However, the matter was pending before the Employment and Labour Relations Court in Eldoret under Petition No. E003 of 2024. The Judgement was delivered on 17th October 2024, where the court ordered the parties to renegotiate on the terms of interns provided for in the CBA.
- (v) There were clear disparities in remuneration across the different cadres of health workers, for instance laboratory or nutritionists or dietician cadres were not remunerated during their internship.
- (vi) The contracts for the UHC staff have been extended over the years, to allow for the two levels of governments time to deliberate on the modalities on the permanent and pensionable terms, with the latest extension set for a further two years after the lapse between April and October 2024.
- (vii) Transitioning the UHC staff to permanent and pensionable terms has not been possible due to inadequate budgetary allocation to county governments which are expected to absorb both UHC and CHERP staff.
- (viii) The disparity in compensation of interns in the health sector was occasioned by the fact that the Ministry of Health was allocated Kshs5.7 billion to cater for the internship programme which was not enough to place all the interns at the initial stipend rates. Therefore, the rates were revised to accommodate 3759 interns from April 2024.
- (ix) County Governments had recognized three unions in the health sector namely, the Kenya National Union of Nurses (KNUN) (December 2016); Kenya Medical

Practitioners and Pharmacists and Dentist Union (July 2017); and Kenya Union of Clinical Officers (December 2017). Only six (6) county governments had signed and executed the recognition agreements with the respective unions.

- (x) The Ministry of Health was in the process of receiving requests for recognition agreements from health sector unions and was in the process of verifying submitted membership list as required under the Labour Relations Act.

PART FIVE

COMMITTEE RECOMMENDATIONS

101. Pursuant to the provisions of Standing Order 227, the Committee makes the following recommendations—

- (i) The Ministry of Health in collaboration with Public Service Commission (PSC), SRC and all relevant stakeholders to fast-track the comprehensive policy proposal to guide on the management of internship in the health sector to address concerns about postings and disparities witnessed in the payment of stipends to interns. The Ministry of Health to present the policy proposal to the Committee on Health within ninety (90) days of tabling of this report.
- (ii) The Ministry of Health in collaboration with the Council of Governors fast-tracks and presents a policy proposal on the employment of the UHC and CHERP staff on permanent and pensionable terms, including budgetary provision, to the Committee on Health within sixty (60) days. In the meantime, the Ministry of Health and the county governments continuously renews the contracts for UHC and CHERP staff until adequate provision of budget for their employment on permanent and pensionable terms.
- (iii) Health sector unions without recognition agreements to engage the Council of Governors and the Ministry of Health to develop a framework as per the provisions of Section 54 (3) the Labour Relations Act. The Cabinet Secretary in charge of the Ministry of Health and the Council of Governors to facilitate the verification of the membership register of the various unions to fast-track the adoption of recognition agreements across the 47 counties.

THE NATIONAL ASSEMBLY PAPERS LAID.	
DATE: 27 NOV 2024	DAY: Wednesday
TABLED BY:	Hon. Nimrod Mbai (Chairperson)
CLERK-AT THE TABLE:	honnale

Signed:  Date: 20/11/2024

THE HON. NIMROD MITHUKA MBAI, M.P.
CHAIRPERSON, PUBLIC PETITIONS COMMITTEE

ANNEXURES

- Annex 1: Adoption List
- Annex 2: Public Petition No. 6 of 2024 Regarding Delays in Posting Medical Interns, Absorption of Universal Health Coverage (UHC) Contract Staff, Conclusion Of Collective Bargaining Agreement (CBA) and Recognition of Agreement in the Health Sector in the Country
- Annex 2: Minutes of the 10th Sitting held on 19th March 2024
- Annex 3: Minutes of the 11th Sitting held on 20th March 2024
- Annex 4: Letter REF: MOH/ADM/VOL.III/208 and dated 3rd July 2024 by the Ministry of Health.
- Annex 5: Letter Ref: COG/6/40 Vol. 95 (65) and dated 1st July 2024, by the Council of Governors.
- Annex 6: Letter Ref: TNT/CONF 51/07 'I' (54) and dated 11th September, 2024 by the National Treasury.
- Annex 7: Minutes of the 61st Sitting of 2024 held on 9th November 2024



REPUBLIC OF KENYA
THE NATIONAL ASSEMBLY
THIRTEENTH PARLIAMENT - THIRD SESSION - 2024
PUBLIC PETITIONS COMMITTEE
ADOPTION SCHEDULE

OF THE REPORT ON CONSIDERATION OF PUBLIC PETITION NO. 6 OF 2024
REGARDING DELAYS IN POSTING MEDICAL INTERNS, ABSORPTION OF UNIVERSAL
HEALTH COVERAGE (UHC) CONTRACT STAFF, CONCLUSION OF COLLECTIVE
BARGAINING AGREEMENT (CBAS) AND RECOGNITION OF AGREEMENT IN THE HEALTH
SECTOR IN THE COUNTRY

DATE.....9TH NOVEMBER 2024.....

We, the undersigned Honourable Members of the Public Petitions Committee, do hereby affix our signatures to this Report on the consideration of **Public Petition No. 6 of 2024 Regarding Delays in Posting Medical Interns, Absorption Of Universal Health Coverage (UHC) Contract Staff, Conclusion of Collective Bargaining Agreement (CBAS) and Recognition of Agreement in the Health Sector in the Country** to confirm our approval and confirm its accuracy, validity and authenticity:

NO.	NAME	DESIGNATION	SIGNATURE
1.	Hon. Nimrod Mbithuka Mbai, M.P.	Chairperson	
2.	Hon. Janet Jepkemboi Sitienei, M.P.	Vice Chairperson	
3.	Hon. Patrick Makau King'ola, M.P.	Member	
4.	Hon. Joshua Chepyegon Kandie, M.P.	Member	
5.	Hon. John Walter Owino, M.P.	Member	
6.	Hon. Ernest Ogesi Kivai, M.P.	Member	
7.	Hon. Maisori Marwa Kitayama, M.P.	Member	
8.	Hon. Edith Vethi Nyenze, M.P.	Member	
9.	Hon. Bidu Mohamed Tubi, M.P.	Member	
10.	Hon. Caleb Mutiso Mule, M.P.	Member	
11.	Hon. (Eng.) Bernard Muriuki Nebart, M.P.	Member	
12.	Hon. Peter Mbogho Shake, M.P.	Member	
13.	Hon. Suzanne Ndunge Kiamba, M.P.	Member	
14.	Hon. John Bwire Okano, M.P.	Member	
15.	Hon. Sloya Clement Logova, M.P.	Member	



REPUBLIC OF KENYA

THE NATIONAL ASSEMBLY
THIRTEENTH PARLIAMENT (THIRD SESSION)

PUBLIC PETITION

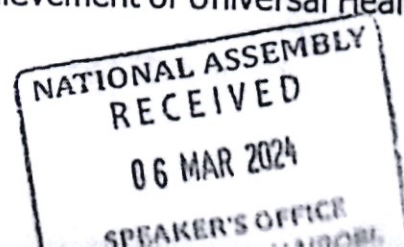
(No. 06 of 2024)

REGARDING DELAYS IN POSTING MEDICAL INTERNS, ABSORPTION OF UNIVERSAL HEALTH COVERAGE (UHC) CONTRACT STAFF, CONCLUSION OF COLLECTIVE BARGAINING AGREEMENTS (CBAs), AND RECOGNITION AGREEMENTS IN THE HEALTH SECTOR IN THE COUNTRY

I, the **UNDERSIGNED**, on behalf of the representatives of the Health Sector Unions, Societies and Associations;

DRAW the attention of the House to the following: -

1. **THAT**, quality healthcare is the lifeline of a country's prosperity and that the maintenance of an appropriate complement of medical practitioners under suitable terms and conditions is fundamental to quality healthcare;
2. **THAT**, Articles 27 and 41 of the Constitution of Kenya as read together with the Employment Act, 2007 provide for the rights of employees and fair labour practices;
3. **THAT**, the African Charter on Human and People's Rights entitles everyone to equal protection of the law including the right to the respect of the dignity inherent in a human being and the right to receive information and to express and disseminate their opinions within the law;
4. **THAT**, despite the elaborate safeguards in international law, the Constitution and statutes, medical practitioners in Kenya have been subjected to unfair labour practices, which have heightened since 2020;
5. **THAT**, in April 2020, following the outbreak of COVID-19, the Government recruited a number of health workers on one-year Universal Health Coverage (UHC) internship contracts to boost efforts on achievement of Universal Health as well as to aid in the fight against COVID-19.



Handwritten notes:
H. Amung'anyi
You may approve.
approved
6/3/24

Handwritten notes:
Approved
SNA
6/3/24

PUBLIC PETITION

REGARDING DELAYS IN POSTING MEDICAL INTERNS, ABSORPTION OF UNIVERSAL HEALTH COVERAGE (UHC) CONTRACT STAFF, CONCLUSION OF COLLECTIVE BARGAINING AGREEMENTS (CBAs), AND RECOGNITION AGREEMENTS IN THE HEALTH SECTOR IN THE COUNTRY

6. **THAT**, the contracted health workers were released from service after one year, yet they had already been assigned personal numbers in the Ministry of Health. Their exit created a shortage that is yet to be addressed and has also made it hard for them to get any other employment in the public service since they are deemed to be in employment because they have personal numbers;
7. **THAT**, the country's Public Service Commission, the Human Resource Policies and Procedures Manual for the Public Service (2016) recognize public sector internship programs, which is both a legal requirement and prerequisite for licensure and independent practice in the case of medical practitioners;
8. **THAT**, whereas the Ministry of Health has a duty to facilitate posting of graduate medical practitioners for mandatory internship, it is yet to post medical interns who ought to have been posted in September 2023;
9. **THAT**, further, the Ministry, which is obligated to compensate medical interns through a standardised salary/stipend, has been applying different terms. For instance, while all other interns are paid based on a job group in the health sector, Diploma Clinical Officers are only paid a meagre allowance that can hardly cater to their basic needs during the internship period;
10. **THAT**, the health staff under UHC contract have been earning a salary equivalent to half of what their colleagues employed under county governments have been earning despite working in the same environment;
11. **THAT**, the delayed internship posting and subsequent licensure deny affected graduates the opportunity to get exposure to uninterrupted skills' mastery that would equip them to contribute to health service delivery in the country;
12. **THAT**, the plight of intern graduates remains unresolved despite recommendations by the Senate for absorption of UHC and other staff contracted during COVID-19. Further that the *Kericho Declaration Agreement* signed on 18th October 2023 by the medical staff Unions, the Ministry of Health and Council of Governors committed the Ministry of Health and Council of Governors to facilitate absorption and mainstreaming of national government contract staff, including the COVID-19/UHC staff into employment;

PUBLIC PETITION

REGARDING DELAYS IN POSTING MEDICAL INTERNS, ABSORPTION OF UNIVERSAL HEALTH COVERAGE (UHC) CONTRACT STAFF, CONCLUSION OF COLLECTIVE BARGAINING AGREEMENTS (CBAs), AND RECOGNITION AGREEMENTS IN THE HEALTH SECTOR IN THE COUNTRY

- 13. THAT**, the health workers currently under the UHC program are about three months to the end of their one-year extension, yet both county governments and the national government have not shown any plans of transitioning them and converting their terms of service to permanent employment as per the *Kericho Declaration*;
- 14. THAT**, further, the health workers under UHC contract have not received gratuities for their previous three-year terms served and no communication regarding the reasons for the delay and when to expect the said gratuities;
- 15. THAT**, while all other unions in other sectors have concluded Collective Bargaining Agreements (CBAs) with their respective employers, the unions in the health sector have been subjected to frustrations and what appears to be deliberate intent to deny them their right to the CBAs;
- 16. THAT**, Petitioners' efforts to resolve these matters with Ministry of Health and other relevant bodied have not fruitful despite their numerous requests for audience and engagements;
- 17. THAT**, the matter presented in this petition is not pending before any Court of law or any constitutional or legal body.

THEREFORE, your humble Petitioners pray that the National Assembly through the Public Petitions Committee –

- (i) Investigates the reasons for the failure by the Ministry of Health to facilitate the posting of graduate interns for mandatory internship since September 2023 and recommends immediate posting of the affected interns and institution of measures to avert in internship posting henceforth;
- (ii) Inquires into the circumstances surrounding the failure by the Ministry of Health to transition health workers contracted under the Universal Health Coverage (UHC) in 2020 to permanent and pensionable terms in accordance with the Kericho agreement of 18th September 2023;

PUBLIC PETITION

REGARDING DELAYS IN POSTING MEDICAL INTERNS, ABSORPTION OF UNIVERSAL HEALTH COVERAGE (UHC) CONTRACT STAFF, CONCLUSION OF COLLECTIVE BARGAINING AGREEMENTS (CBAs), AND RECOGNITION AGREEMENTS IN THE HEALTH SECTOR IN THE COUNTRY

- (iii) Intervenes to cause the Ministry of Health to absorb all the Universal Health Coverage (UHC) health workers and other contracted health workers into permanent or pensionable service in order to address the acute shortage in the health sector;
- (iv) Recommends to the Ministry to immediately address discriminatory disparities in compensation of medical interns and instead apply fair remuneration as per the Salaries and Remuneration Commission terms pegged on job grades;
- (v) Recommends that the pending Collective Bargaining Agreements (CBAs) and Recognition Agreements be concluded expeditiously; and,
- (vi) Makes any other recommendations it deems fit in addressing the plight of the Petitioners.

And your **PETITIONER** will ever pray.

PRESENTED BY:

THE HON. (DR.) ROBERT PUKOSE, CBS, MP
MEMBER FOR ENDEBESS CONSTITUENCY

DATE:



HEALTH UNION CAUCUS

4th March 2024

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

Through;
The Clerk of the National Assembly,
Nairobi, Kenya.

① DLPS
Please deal.
SSQ.
05/03/24
Head, HR
Kwells process

RE: PETITION ON DELAYING IN ABSORBING UHC STAFF, DELAY IN INTERNSHIP POSTING, DELAY IN CONCLUSION OF CBAs/RAs & VICTIMIZATION OF UNION OFFICIALS. 05/2/24

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

DRAW the attention of the National Assembly to the following:

THAT:

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

THAT:

- In June 2020, at the height of COVID19 pandemic, the Ministry of Health employed about 8,550 on a three-year UHC contract and deployed them in different County Government(s). Their contracts are coming to an end in May 2023

NATIONAL ASSEMBLY
04 DEC 2024
NAIROBI

NATIONAL ASSEMBLY
RECEIVED
04 MAR 2024

- The UHC staff have been diligently providing critical health services across the country since they were engaged.
- These contracts attracted a consolidated salary that have seen them earn half of what their peers earn working in the s
- These staff are disturbed and demotivated by these development as they had valid expectations that they would have been absorbed on permanent and pensionable terms or their remuneration improved to be equal with their peers whom they work together under same conditions but earning differently.

THAT;

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

THAT;

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

THAT;

- Both Article 27 of the Constitution and Section 5 of the Act prohibit discrimination on the basis of race, colour, sex, language, religion, political or other opinion, nationality, ethnic or social origin, disability, pregnancy, marital status or HIV status.
- Section 5(7) of the Act provides that when discrimination has been alleged by an employee, the burden of proof shifts to the employer who must show that it did not take place.
- According to the Constitution of Kenya, all human beings are born equal and are equal before the law.
- Section 5 of the Employment Act provides that it's illegal to discriminate in any facet of employment.

- It also provides that an employer shall promote equal opportunities in employment and shall ensure that policies and practices of the organization discourage discrimination.
- The law disallows discrimination in the process of recruitment, training, promotion, terms and conditions of employment, termination of employment and other matters related to employment.

THAT;

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

THAT;

- The internship is a legal requirement and a prerequisite for licensure and independent practice. The ministry of health is mandated to ensure that these officers are facilitated by posting to internship centres and paying their salary/stipend.
- These interns were supposed to be posted in September 2023 but this has not happened to date.
- Also, while all other interns are paid using a job group in the health sector, diploma Clinical Officers are only paid a meagre allowance that can't cater to their basic needs during the internship.
- Delay in internship posting delays licensure and therefore creates anxiety, denies the graduates opportunity to work and contribute to health service delivery as well as interruption of skills mastery process which impacts on the quality of health services delivered in future.

THAT;

- The African Charter on Human and People's Rights, to which Kenya became a state party on 23rd January 1992 and in particular Article 3(2) which provides that every person is entitled to equal protection of the law.
- Article 5 which provides that every individual shall have the right to the respect of the dignity inherent in a human being;
- Article 9 which provides that every individual shall have the right to receive information and to express disseminate his opinions within the law.

THAT;

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

THAT;

- The Senate gave a report recommending for absorption of UHC and other staff contracted during COVID 19.

THAT;

- On 18th October 2023, the Unions, MoH and Council of Governors signed the KERICHO DECLARATION where it was agreed that the MoH and CoG would *“Facilitate absorption and mainstreaming of national government contract staff (including COVID19/UHC staff), and engaging COG to develop a clear plan for absorbing other contract staff.”*
- The health workers under UHC program are about three months shy to the end of their one-year extension yet both County government and the national government have not shown any plans of transitioning and translating their terms of service as per the agreement made in THE KERICHO DECLARATION (BULLET #10) On 20th of October 2023.
- The health workers under UHC contract have not received the gratuities for their previous three-year term served. Further, there is no any communication from their employer about when to receive the said gratuities. Despite issue being Gazetted on the gazette notice number 8091 dated 12th of October 2020.
- The health staff under UHC contract have been earning a salary equivalent to half of what their fellow colleagues employed under county government have been earning despite working in the same environment. They pray for fair remuneration as per the salaries and remuneration commission terms.

THAT;

- While all other unions in other sectors have concluded CBAs with their respective employers, Unions in health sector have only been subjected to frustrations and deliberate delays to deny them their right to CBAs.

In view of the foregoing, we DEMAND:

THAT;

The NaMinistry of Health and Council of Governors;

- 1. Absorbs the Universal health workers and all contracted health workers into permanent or pensionable establishment,**
- 2. Immediately posts interns, takes measures to end delays in internship posting henceforth and pay internship on a job grade for all interns without discrimination.**
- 3. The pending Collective Bargaining Agreements and Recognition Agreements be concluded within the next 14 days**

THAT;

4. All third-party deductions for UHC staff including NSSF, NHIF, LOANS and be remitted immediately but not later than the next 14 days.

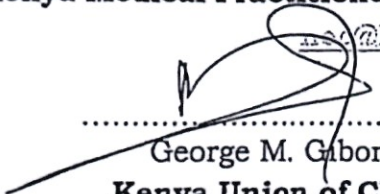
Dated & signed at NAIROBI this 4th day of March 2024.

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



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

info@kmpdu.org

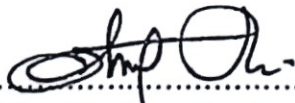


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George M. Gbore - General Secretary
Kenya Union of Clinical Officers (KUCO)
kucoc001@gmail.com / 0798 133 574

For ~~the~~

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Seth Panyako - General Secretary
Kenya National Union of Nurses (KNUN)

info@knun.org



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

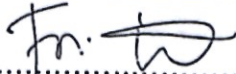
knumlooffice@gmail.com



.....
Elias Mutuma - General Secretary

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

knupt.union@gmail.com



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

info@kunad.org



.....
Brown Ashira

Kenya Environmental and Public Health Practitioners Union (KEPHPU)



REPUBLIC OF KENYA
THE NATIONAL ASSEMBLY

MINUTES OF THE 10TH SITTING OF THE PUBLIC PETITIONS COMMITTEE HELD ON TUESDAY, MARCH 19, 2024, IN COMMITTEE ROOM 12, NEW WING, MAIN PARLIAMENT BUILDINGS AT 12.00 NOON

PRESENT

1. Hon. Janet Jepkemboi Sitienei, M.P. - Vice Chairperson
2. Hon. Joshua Chepyegon Kandie, M.P.
3. Hon. John Walter Owino, M.P.
4. Hon. Ernest Ogesi Kivai, M.P.
5. Hon. Maisori Marwa Kitayama, MP
6. Hon. Bidu Mohamed Tubi, M.P.
7. Hon. (Eng.) Bernard Muriuki Nebart, M.P.
8. Hon. Edith Vethi Nyenze, M.P.
9. Hon. Caleb Mutiso Mule, M.P.
10. Hon. Suzanne Ndunge Kiamba, M.P.
11. Hon. Peter Mbogho Shake, M.P.

APOLOGIES

1. Hon. Nimrod Mbithuka Mbai, M.P. - Chairperson
2. Hon. Patrick Makau King'ola, M.P.
3. Hon. John Bwire Okano, M.P.
4. Hon. Sloya Clement Logova, M.P.

SECRETARIAT

1. Mr. Noah Too - Principal Clerk Assistant I
2. Mr. Ahmed Kadhi - Senior Clerk Assistant
3. Ms. Miriam Modo - Clerk Assistant I
4. Ms. Patricia Gichane - Legal Counsel II
5. Mr. Willis Obiero - Clerk Assistant III
6. Mr. Martin Sigei - Research Officer III
7. Mr. Calvin Karungo - Media Relations Officer III
8. Ms. Felistus Muiya - Public Communications Officer
9. Mr. Peter Mutethia - Audio Officer

IN-ATTENDANCE

UNIVERSITY OF NAIROBI

1. Mr. Benard Njuguna - Registrar, Administration
2. Ms. Elizabeth Boke

PETITIONER

Hon. (Dr.) Robert Pukose, MP - Chairperson, Departmental Committee on Health

HEALTH SECTOR UNIONS, SOCIETIES & ASSOCIATIONS

1. KENYA MEDICAL PRACTITIONERS AND DENTISTS UNION (KMPDU)

Dr. Davji Atellah - General Secretary
Dr. Dennis Miskellah - Deputy Secretary General
Dr. Cheronno Siele - Member

2. KENYA UNION OF CLINICAL OFFICERS (KUCO)

Mr. George Gibore - General Secretary
Ms. Mary Boniface - National Treasurer

3. KENYA NATIONAL UNION OF NURSES (KNUN)

Mr. Moses Kirui - Legal
Mr. Stephen Ruterere - Industrial Relations Officer

4. KENYA NATIONAL UNION OF PHARMACEUTICAL TECHNOLOGISTS AND OFFICERS (KNUPT)

Mr. Elias Mutuma - General Secretary

5. KENYA NATIONAL UNION OF MEDICAL LABORATORY OFFICERS (KNUMLO)

Mr. Pius Nyakundi - General Secretary/CEO
Ms. Ann Sakwa - Deputy Secretary General
Ms. Angeline Mutisya - Treasurer

6. KENYA UNION OF NUTRITIONISTS AND DIETITIANS (KUNAD)

Ms. Lilian Mumina - National Treasurer

7. KENYA ENVIRONMENTAL & PUBLIC HEALTH PRACTITIONERS UNION (KEPHPU)

Mr. Brown Ashira - General Secretary
Mr. Kennedy Omolo - Deputy Secretary General
Mr. Juma Maelo - Deputy Chairperson
Mr. Mohamed Ali - Treasurer

8. UNIVERSAL HEALTH COVERAGE (UHC) INTERNS

Mr. Kipkirui Korir
Ms. Charity Wambugu

MIN./PPETC/2024/ 070: PRELIMINARIES

The Chairperson called the meeting to order at 12:00 noon and proceedings began with prayers by Hon. Ernest Kagesi, M.P.

MIN./PPETC/2024/071: ADOPTION OF AGENDA

AGENDA

1. Prayer
2. Adoption of the Agenda
3. Confirmation of minutes of previous sittings
4. Matters Arising

5. Consideration of Public Petition No. 6 of 2024 regarding Delays in posting medical interns, absorption of universal health coverage contract staff, conclusion of Collective Bargaining Agreements (CBAs) and Recognition Agreements in the health sector in the country.
 - *Meeting with the Petitioner(s)*

6. Consideration of Public Petition No. of 2023 regarding Delayed payment of Pension by Kenya Railways Corporation
 - *Meeting with Kenya Railways Corporation*
 - *Meeting with University of Nairobi*

7. Any Other Business
8. Adjournment

The Agenda was adopted to constitute business having been proposed by Hon. Ernest Kagesi, M.P. and seconded by Hon. Edith Vethi Nyenze, M.P

MIN./PPETC/2024/072: CONFIRMATION OF MINUTES OF PREVIOUS SITTINGS

The Agenda was deferred.

MIN./PPETC/2024/073: CONSIDERATION OF PUBLIC PETITION NO. OF 2023 REGARDING DELAYED PAYMENT OF PENSION BY KENYA RAILWAYS CORPORATION

Meeting with the University of Nairobi

Mr. Benard Njuguna, the Registrar, Administration, University of Nairobi appeared before the Committee on behalf of the Vice Chancellor, Prof. S.G Kiama, PhD and submitted as follows that—

- i. Mr. Mocheo was appointed as an Assistant Accountant on permanent and pensionable terms in the Finance Department of the University of Nairobi on March 5, 1985.

- ii. On April 29, 1985, the Kenya Railways Corporation wrote to the University of Nairobi to confirm acceptance of Mr. Mocheo's services with the Corporation to be transferred to the University, subject to him joining the then Superamated Retirement Benefit Scheme applicable to university staff.

- iii. On June 12, 1985, the University wrote to the Kenya Railways Corporation conveying the acceptance to transfer Mr. Mocheo's service to the University. The Corporation was requested to proceed and process the transfer.
- iv. The Kenya Railways did not transfer Mr. Mocheo's pension benefits to the University of Nairobi for the period he worked at the Corporation.
- v. Mr. Mocheo retired from the service of the University of Nairobi service through early retirement on December 31, 2006 after serving for 22 and was informed that he would be paid his retirement benefits in accordance with the rules of the University of Nairobi Pension Scheme.
- vi. On August 11, 2006, a meeting was held between the Registrar, Administration, the Administrator, the University of Nairobi Pension Scheme, and the Executive Trustee, Kenya Railways Pension Scheme to discuss the matter of Mr. Mocheo's pension payment.
- vii. The meeting noted that although the Railways Corporation transferred Mr. Mocheo's service to the University, it did not, however, transfer his accrued pension benefits. The Kenya Railways opted to retain these benefits until Mr. Mocheo's retirement.
- viii. The meeting agreed that the University would formally inform Kenya Railways on Mr. Mocheo's retirement date to enable it to start processing his pension benefits, i.e. for the period Mr. Mocheo served the Corporation.
- ix. On its part, the University would process Mr. Mocheo's benefits for the period he had served the University as per the rules and regulations of the University of Nairobi Pension Scheme.
- x. The University of Nairobi Pension Scheme paid Mr. Mocheo his pension dues for the 22 years he served at the University of Nairobi i.e. between March 5, 1985, and December 31, 2006: Kshs 723,111.00 as lump sum less the withholding tax vide UNPS Voucher Number 11237 dated December 6, 2006.
- xi. The mandate of the University following the law, was to only pay terminal and retirement benefits calculated from the date Mr. Mocheo worked for it until the date he retired from employment which it did.
- xii. The University paid Mr. Mocheo all his pension dues for the period he served at the University and did not owe him. The Kenya Railways Corporation should pay Mr. Mocheo his pension dues for the period he worked with the Corporation.

Committee Concerns

- i. The Committee inquired whether the lumpsum pay to Mr. Mocheo was sufficient or he was entitled to monthly payment. The Registrar indicated that

Mr. Mocheo was receiving a monthly pension of about Kshs. 1800 from the University even after getting the lumpsum which was in defined benefit.

- ii. The Committee sought clarification whether there was follow up to regularize the payment of pension from the two institutions. The Registrar stated that the University and the Corporation held a meeting on 11th August 2006 noting that Mr. Mocheo had retired. It was agreed that Kenya Railways Corporation was to pay him for eighteen (18) years and UON to pay for the twenty-two years he had worked for the University.
- iii. Regarding transfer of service, the Registrar indicated that the University was guided by the Public Service Commission Human Resource Manual. An employee was not expected to lose pension after transfer of service as the two institutions were expected to harmonize. The transfer of service was accepted but the policy allowed and Mr. Mocheo opted to transfer his pension. Therefore, the KRC pension scheme was to send the pension to UON after a computation, however that was not done. On the meeting of 11th August, 2006, KRC confirmed that they owed Mr. Mocheo for that bit as they transferred the services but retained the pension.

MIN./PPETC/2024/074:

CONSIDERATION OF PUBLIC PETITION NO. 6 OF 2024 REGARDING DELAYS IN POSTING MEDICAL INTERNS, ABSORPTION OF UNIVERSAL HEALTH COVERAGE CONTRACT STAFF, CONCLUSION OF COLLECTIVE BARGAINING AGREEMENTS (CBAS) AND RECOGNITION AGREEMENTS IN THE HEALTH SECTOR IN THE COUNTRY.

Brief by Secretariat

The Secretariat briefed the Committee on the Petition as follows that—

Background

- i. The petitioner claimed that despite applicable international laws, the Constitution and statutes, medical practitioners in Kenya had been subjected to unfair labour practices since 2020.
- ii. The government hired medical workers under a one-year universal health care coverage internship contract in 2020 in a bid to fight the Covid-19 outbreak and boost efforts to achieve Universal Health Care.
- iii. The health workers were released from their contracts after one year. However, they are deemed to be employed by the Public Service as they were issued with personal numbers, making it difficult for them to seek employment elsewhere.
- iv. Since September 2023, the Ministry of Health has failed to post graduate medical practitioners for internship which is a prerequisite of obtaining a licence.

- v. Further, the Ministry does not compensate medical interns through standardized salary/stipend.
- vi. The Kericho Declaration signed on the 18.9.2023 between the medical unions, the Council of Governors and the Ministry of Health, committed the absorption of national government UHC medical staff into employment. The UHC medical staff have also not received gratuities for the past three years.
- vii. Despite the fact that other unions from other sectors have concluded their Collective Bargaining Agreement's the health sector has been frustrated with their rights to the Collective Bargaining Agreement denied.

Prayers

The petitioner sought the intervention of the Committee to—

- i. Investigate reasons for failure by the Ministry of Health to post-graduate medical interns for mandatory internship since September 2023;
- ii. Inquire into the failure by the Ministry of Health to transition the Universal Health Coverage staff into permanent and pensionable terms in accordance with the Kericho Declaration Agreement signed on 18th September 2023;
- iii. Intervene to make the Ministry of Health to absorb all Universal Health Coverage workers to permanent and pensionable terms to address the shortage in the health sector;
- iv. Recommend the Ministry of Health to address discriminatory disparities in compensation of medical interns and apply fair remuneration as per the terms of job grades of the Salaries and Remuneration Commission;
- v. Recommend that the pending collective bargaining agreement and recognition agreements be concluded expeditiously;
- vi. Make any other relevant recommendation.

Submissions by the Petitioner, Hon. (Dr.) Robert Pukose, MP

The Petitioner Hon. (Dr.) Pukose appeared before the Committee and submitted as follows that—

- i. Quality healthcare is the lifeline of a country's prosperity and that the maintenance of an appropriate complement of medical practitioners under suitable terms and conditions is fundamental to quality healthcare;
- ii. Articles 27 and 41 of the Constitution of Kenya as read together with the Employment Act, 2007 provide for the rights of employees and fair labour practices;
- iii. The African Charter on Human and People's Rights entitles everyone to equal protection of the law including the right to the respect of the dignity inherent in a human being and the right to receive information and to express and disseminate their opinions within the law;

- iv. Despite the elaborate safeguards in international law, the Constitution and statutes, medical practitioners in Kenya have been subjected to unfair labour practices, which have heightened since 2020;
- v. In April 2020, following the outbreak of COVID-19, the Government recruited a number of health workers on one-year Universal Health Coverage (UHC) internship contracts to boost efforts on achievement of Universal Health as well as to aid in the fight against COVID-19.
- vi. The contracted health workers were released from service after one year, yet they had already been assigned personal numbers in the Ministry of Health. Their exit created a shortage that is yet to be addressed and has also made it hard for them to get any other employment in the public service since they are deemed to be in employment because they have personal numbers;
- vii. The country's Public Service Commission, the Human Resource Policies and Procedures Manual for the Public Service (2016) recognize public sector internship programs, which is both a legal requirement and prerequisite for license and independent practice in the case of medical practitioners;
- viii. Whereas the Ministry of Health has a duty to facilitate posting of graduate medical practitioners for mandatory internship, it is yet to post medical interns who ought to have been posted in September 2023;
- ix. Further, the Ministry, which is obligated to compensate medical interns through a standardised salary/stipend, has been applying different terms. For instance, while all other interns are paid based on a job group in the health sector, Diploma Clinical Officers are only paid a meagre allowance that can hardly cater to their basic needs during the internship period;
- x. The health staff under UHC contract have been earning a salary equivalent to half of what their colleagues employed under county governments have been earning despite working in the same environment;
- xi. The delayed internship posting and subsequent licensing deny affected graduates the opportunity to get exposure to uninterrupted skills' mastery that would equip them to contribute to health service delivery in the country;
- xii. The plight of intern graduates remains unresolved despite recommendations by the Senate for absorption of UHC and other staff contracted during COVID-19. Further that the *Kericho Declaration Agreement* signed on 18th October 2023 by the medical staff Unions, the Ministry of Health and Council of Governors committed the Ministry of Health and Council of Governors to facilitate absorption and mainstreaming of national government contract staff, including the COVID-19/UHC staff into employment;
- xiii. The health workers currently under the UHC program are about three months to the end of their one-year extension, yet both county governments and the

national government have not shown any plans of transitioning them and converting their terms of service to permanent employment as per the *Kericho Declaration*;

- xiv. Further, the health workers under UHC contract have not received gratuities for their previous three-year terms served and no communication regarding the reasons for the delay and when to expect the said gratuities;
- xv. While all other unions in other sectors have concluded Collective Bargaining Agreements (CBAs) with their respective employers, the unions in the health sector have been subjected to frustrations and what appears to be deliberate intent to deny them their right to the CBAs;
- xvi. The petitioners' efforts to resolve these matters with Ministry of Health and other relevant bodied had not been fruitful despite the numerous requests for audience and engagements;
- xvii. The matter presented in the petition was not pending before any Court of law or any constitutional or legal body.

Submissions by Health Sector Unions, Societies & Associations

The Petitioner(s) drawn from the various health sector unions, societies and associations appeared before the Committee and submitted that the Committee—

- i. Investigates the reason for the failure of the Ministry of Health to facilitate the posting of graduate interns for mandatory internship since September 2023 and recommends the immediate posting of the affected interns as well as institutional measures to avert the challenges in internship posting going forward.
- ii. Inquire into the circumstances surrounding the failure of the Ministry of Health to transition contracted under the UHC in 2020 to permanent and pensionable terms in accordance with the Kericho Declaration Agreement on 18th September 2023.
- iii. Intervene to cause the Ministry of Health to absorb all the UHC workers and other contracted health workers into permanent and pensionable services to address the shortage in the health sector.
- iv. Recommend that the Ministry of Health immediately addresses discriminatory disparities in compensation of medical interns and instead apply renumeration as per the Salaries and Remuneration Commission (SRC) terms.
- v. Recommends that the CBA and recognition agreement be concluded expeditiously.
- vi. Make any other recommendation as it may deem fit in addressing the plight of the petitioners.

The Petitioner(s) further clarified the issues raised in the petition as follows—

Delay in posting of medical interns

- i. Internship is a compulsory requirement for medical practitioners, including pharmacists, dentists, clinical officers, nurses, and laboratory technicians. Moreover, interns comprise not only fresh graduates but also experienced health practitioners.
- ii. Once assigned to various places of work, interns provide services after obtaining temporary licenses from their respective regulatory councils.
- iii. Over the past two years, there has been a noticeable delay in posting medical interns, with some waiting a year or two after graduating before being assigned.
- iv. For example, the Kenya Medical Practitioners, Pharmacists and Dentists Union (KMPDU) negotiated a Collective Bargaining Agreement (CBA) with the Ministry of Health, approved by the Salaries and Remuneration Commission (SRC), stipulating that medical officers should be posted for internships within 30 days of clearance by their regulatory councils. However, significant delays have persisted before they can commence service.
- v. Interns constituted approximately 27-30 percent of the medical workforce in the counties. Consequently, delays in posting them after the preceding cohort completes its internship led to severe shortages in service delivery.
- vi. The Ministry of Health proposed salary payments to interns in a letter to the SRC, which responded with recommendations that led to reductions in stipends. For instance, stipends for doctor interns were slashed by 91 percent, while those for clinical officers and nurses were reduced by up to 50 percent. This occurred despite a negotiated CBA submitted to court.
- vii. Furthermore, interns are included in the staff establishment by the Public Service Commission (PSC), enabling their posting and allowing the Ministry of Health to plan and budget accordingly. However, the Ministry has inconsistently paid some interns according to their job group while neglecting to pay others.

Absorption of Universal Health Coverage contract staff

- i. The country has been striving to ensure that every Kenyan can access healthcare regardless of their socioeconomic status or ability to pay for medical services. As part of this effort, the Ministry of Health engaged a significant number of healthcare workers starting in 2019. These staff, under the Universal Health Coverage (UHC) contract, courageously served on the frontlines during the COVID-19 pandemic, risking their lives.

- ii. There were three categories of UHC staff: first, those employed in 2020, totaling around 8,500, contracted for three years. Their service term was extended for an additional year based on the advisory of the Public Service Commission (PSC), with an indication that they would transition to permanent and pensionable terms after this extension. However, while counties extended the contracts of these officers in writing for three years, their payroll reflected only a one-year extension, leading to confusion on how to address the issue.
- iii. The second category of UHC staff, known as UHC interns, served between 2020 and 2021 for a year. Their concerns have never been addressed, and they have not received their gratuity.
- iv. The third category comprised individuals referred to as the COVID-19 response team, numbering about 900. They worked briefly during the pandemic but did not receive their gratuity upon completion of their service.
- v. Contrary to Section 5 of the Labour Relations Act, which stipulates equal pay for equal value of work, these different categories of workers performed duties in the same departments as their colleagues but received only half or a third of their salaries.
- vi. Additionally, these workers were denied the ability to plan for their futures as they were on contract terms, preventing them from pursuing career progression opportunities like their counterparts on permanent and pensionable terms.

Realisation of the Universal Health Coverage

- i. Despite the government's pledge to bolster the healthcare workforce, there has been a decline in numbers. This decrease stems from natural attrition, resignations, and the migration of healthcare professionals to more favourable employment opportunities elsewhere.
- ii. Both national and county governments have failed to implement a strategy for annual recruitment of healthcare workers. The committee should propose a mechanism compelling national and county government to hire health workers, aligning with the goal of achieving Universal Health Coverage (UHC), similar to recruitment practices observed in the teaching profession and security sector.
- iii. Many counties have exceeded the Controller of Budget's (COB) ceiling points, which stipulate that no county should allocate more than 35 percent of its budget towards wages and remuneration. However, numerous counties have surpassed this threshold, with some exceeding 40 percent.

Collective Bargaining Agreement (CBA) and recognition agreement in the health sector

- i. Despite Kenya's ratification of Convention C98, which guarantees the right to collective bargaining as outlined in Article 41 of the Constitution, unions have faced a concerning trend. Without issuing strike notices, they have

encountered difficulties in getting their Collective Bargaining Agreements (CBAs) signed by national and county governments.

- ii. Notably, nurses and clinical officers have exerted significant effort over the years, yet their employers have failed to sign CBAs. In the case of doctors, despite the signing of a CBA intended to run from 2017 to 2021, 90 percent of its articles remained unimplemented throughout its four-year cycle.
- iii. Articles within the 2017-2021 CBA have been systematically violated, including provisions regarding the posting of medical interns, basic salary increments, post-graduate training for all cadres, and medical cover.
- iv. The medical allowance, ranging between Kshs. 4000 and Kshs. 6000 in 2011, was relinquished and replaced by comprehensive coverage. However, with the enactment of the new Social Health Insurance Act, only 40 percent of civil servants will be covered, leaving healthcare providers unable to afford the care they deliver.
- v. Employers should be compelled to honour recognition agreements with unions, eliminating the need for strike notices to negotiate CBAs.
- vi. In the health sector, only three unions have recognition agreements, leaving others in limbo as employers bypass their legal right to recognition agreements. The committee should intervene to ensure justice for these unions.

Intimidation and victimization of union leaders

Intimidation and victimization of union leaders had occurred across the country through harassment and brutality during peaceful and lawful protests.

Committee concerns

- i. **Regarding whether the matter was *sub judice***, the petitioners explained that matters raised in the Petition were not pending before any court of law and that that the matter before court was relating to stopping the ongoing strike by the health workers which was different to matters in the petition.
- ii. **Regarding the practicality of the Government to absorb all interns given the budgetary constraints**, the petitioners stated that they had engaged MOH and COG and signed an agreement that health workers were posted in shifts. That the government did that after a strike notice was issued. However, in 2024, there have been health care workers who have not been posted as per the agreement. That it was both a budgeting issue as well as a matter of priority. The petitioners indicated that they had negotiated with government but the commitments were not honored by government.
- iii. **Regarding possibility of absorbing the interns in private and mission hospitals**, the petitioners indicated that interns are placed in different level four and five

hospitals which have the capacity to ensure they can learn under experienced professionals.

- iv. **Regarding whether the UHC contract staff had a conditional time for offering the services**, the Petitioners indicated that indeed they had a specific period to offer the services during the COVID-19 period especially in the counties. However, the government realised that if the 8500 health workers were removed from counties, the counties would be stranded and the government extended their terms from one to three years contract. The counties had been requesting to have the UHC contract staff be employed on permanent and pensionable terms because of exceeding need.
- v. **Regarding the need for posting interns**, the petitioners stated that doctors, pharmacists and dentists, after their internship, in Job Group L, they were to automatically absorbed to Job Group M. This was derived based on the number of doctors in the country which was at the ratio of one to 17,000 people and 13 health workers per 10,000 people. To reach the WHO ratio of one to 1,000, there was need to employ 50,000 doctors. The shortage of doctors and health workforce had caused longer waiting times. The COG indicated that they were unable to absorb doctors annually as it was in 2017 because of budgetary constraint but the need was there.
- vi. **Regarding the on-boarding of community health promoters**, the Petitioners stated that the community health promoters were not in the cadre recognized in the health care sector.


Committee resolution

The Committee guided the petitioners to submit a comprehensive submission regarding the joint petition outlining the institution, issues, and the responsible institution to action concerns raised. The petitioners undertook to submit their comprehensive and joint written submission by Friday 22nd March 2024.

MIN./PPETC/2024/075:

ADJOURNMENT AND DATE OF NEXT MEETING

The Chairperson adjourned the meeting at 3:30 p.m. The next meeting will be held on Wednesday 20th March, 2024 at 12.00 noon.

Sign: 

(CHAIRPERSON)

Date: 21-03-2024



REPUBLIC OF KENYA
THE NATIONAL ASSEMBLY

MINUTES OF THE 11TH SITTING OF THE PUBLIC PETITIONS COMMITTEE HELD ON
WEDNESDAY, MARCH 20, 2024, IN COMMITTEE ROOM 24, BUNGE TOWERS,
PARLIAMENT BUILDINGS AT 12.00 NOON

PRESENT

- | | | |
|---|---|----------|
| 1. Hon. Ernest Ogesi Kivai, M.P. | - | Chairing |
| 2. Hon. Joshua Chepyegon Kandie, M.P. | | |
| 3. Hon. Maisori Marwa Kitayama, MP | | |
| 4. Hon. John Walter Owino, M.P. | | |
| 5. Hon. Edith Vethi Nyenze, M.P. | | |
| 6. Hon. Bidu Mohamed Tubi, M.P. | | |
| 7. Hon. (Eng.) Bernard Muriuki Nebart, M.P. | | |
| 8. Hon. Peter Mbogho Shake, M.P. | | |
| 9. Hon. Suzanne Ndunge Kiamba, M.P. | | |

APOLOGIES

- | | | |
|--|---|------------------|
| 1. Hon. Nimrod Mbithuka Mbai, M.P. | - | Chairperson |
| 2. Hon. Janet Jepkemboi Sitienei, M.P. | - | Vice Chairperson |
| 3. Hon. Patrick Makau King'ola, M.P. | | |
| 4. Hon. Caleb Mutiso Mule, M.P. | | |
| 5. Hon. John Bwire Okano, M.P. | | |
| 6. Hon. Sloya Clement Logova, M.P. | | |

IN ATTENDANCEMINISTRY OF LABOUR AND SOCIAL PROTECTION

- | | | |
|------------------------|---|--------------------------|
| 1. Hon. Florence Bore | - | Cabinet Secretary |
| 2. Ms. Hellen Apiyo | - | Commissioner for Labour |
| 3. Mr. Douglas Katho | - | Director, Liaison |
| 4. Ms. Mercy Kandie | - | Communications Assistant |
| 5. Mr. Kenneth Kasyoki | - | Labour Officer |
| 6. Mr. Peter Mutema | - | Senior Labour Officer |
| 7. Mr. Daniel Kigen | - | Communications Officer |

PETITIONER

- | | | |
|-------------------------------|---|-----------------------------------|
| 1. Hon. Bady Twalib Bady, M.P | - | Member of Parliament, Jomvu |
| Constituency | | |
| 2. Ms. Aziza Juma Daudi | - | Petitioner and residence of Jomvu |

SECRETARIAT

- | | | |
|-------------------------|---|-----------------------------|
| 1. Mr. Ahmed Kadhi | - | Senior Clerk Assistant |
| 2. Ms. Miriam Modo | - | Clerk Assistant I |
| 3. Ms. Patricia Gichane | - | Legal Counsel II |
| 4. Mr. Willis Obiero | - | Clerk Assistant III |
| 5. Mr. Martin Sigei | - | Research Officer III |
| 6. Mr. Calvin Karungo | - | Media Relations Officer III |
| 7. Mr. Paul Shana | - | Serjeant-at-Arms |
| 8. Mr. Peter Mutethia | - | Audio Officer |

MIN./PPETC/2024/ 076: PRELIMINARIES

The Chairperson called the meeting to order at 12:00 noon and proceedings began with prayers by Hon. Edith Nyenze, M.P.

MIN./PPETC/2024/077: ADOPTION OF AGENDA

AGENDA

1. Prayer
2. Adoption of the Agenda
3. Confirmation of minutes of previous sittings
4. Matters Arising
5. Consideration of Public Petition No. 6 of 2024 regarding Delays in posting medical interns, absorption of universal health coverage contract staff, conclusion of Collective Bargaining Agreements (CBAs) and Recognition Agreements in the health sector in the country.
 - Meeting with Council of Governors (CoG)
 - Meeting with CS, Ministry of Labor & Social Protection
6. Consideration of Public Petition No. 33 of 2023 regarding Compensation of persons affected by Mombasa-Mariakani Road Dualling Project
7. Consideration of Public Petition No. 82 of 2023 regarding Delay in completion of Jitoni-Rabai Road in Jomvu Sub-County
8. Any Other Business
9. Adjournment

The Agenda was adopted to constitute business having been proposed by Hon. Peter Shake, M.P. and seconded by Hon. Joshua Chepyegon Kandie, M.P

MIN./PPETC/2024/078: CONFIRMATION OF MINUTES OF PREVIOUS SITTINGS

The Agenda was deferred.

KIN./PPETC/2024/079:

CONSIDERATION OF THE DRAFT REPORT OF
PUBLIC PETITION NO. 6 OF 2024 REGARDING
DELAYS IN POSTING MEDICAL INTERNS,
ABSORPTION OF UNIVERSAL HEALTH COVERAGE
CONTRACT STAFF, CONCLUSION OF COLLECTIVE
BARGAINING AGREEMENTS (CBAS) AND
RECOGNITION AGREEMENTS IN THE HEALTH
SECTOR IN THE COUNTRY

Meeting with Cabinet Secretary, Ministry of Labor & Social Protection

The Cabinet Secretary, Hon. Florence Bore appeared before the Committee and submitted as follows that—

- a) Owing to the fact that the issues raised in the petitions were ongoing national issues, the Ministry would provide a further detailed response to the petition.
- b) The Kenya Medical Practitioners, Pharmacists and Dentists Union (KMPDU) issued a strike notice on 28th November 2022 and in response, the Cabinet Secretary appointed a Conciliator who attempted to reconcile the parties.
- c) Given the complex nature of the dispute there was a need to have a broad-based intervention by various government agencies, from whom key information and opinion is required. The process was prolonged and not concluded amicably. The Conciliator's report of the negotiation process was released on 6th March 2024.
- d) The KMPDU recently issued a notice of strike on 6th March 2024 expressing intention to proceed on industrial action within seven days of the notice. There were several issues raised by the Union including non-implementation of the parties CBAs, negotiation of the new CBAs, and failure to implement court decisions and directives.
- e) In response, the Cabinet Secretary appointed a Conciliation Committee on 11th March 2024. In the meantime, the employer proceeded to Court and under Case Number ELRCPET/E032/2024 and obtained the following orders—
 - i. restraining orders against KMPPDU proceeding on industrial action;
 - ii. the Conciliation Committee appointed by the Cabinet Secretary to expeditiously proceed for the union and the concerned public service employers to conclude a Tripartite Memorandum of Understanding on the Minimum Safety services the members of the Union shall provide in the event of a strike;
 - iii. to institute a whole-nation approach towards resolving the instant outstanding dispute and to achieving a sustainable solution of the ongoing negotiation and conciliation to incorporate—
 1. Head of Public Service
 2. Cabinet Secretary, Ministry of Finance
 3. Cabinet Secretary for Ministry of Public Service

4. Cabinet Secretary for Labour and Social Protection
5. Salaries & Remuneration Commission (SRC)
6. Public Service Commission (PSC)
7. Council of Governors (COG) and each of the 47 County Governors
8. The Federation of Kenya Employers
9. Central Organization of Trade Unions (COTU)
10. All National Referral Hospitals and the parties to the suit

f) The role of Ministry was to bring the parties on the table for them to have an agreement and negotiations. The Conciliation Committee was ongoing with meetings to have an agreement between the parties.

Committee concerns

- a) Regarding the detailed written response to the petition from the Ministry, the CS indicated that the Ministry would present a detailed response within one week to enable the Committee proceed to prosecute the petition including the concerns raised by Members. The Members requested the CS to submit proposals for a long-term solution to sought the perennial issues in the health sector which were not going to go away.
- b) The Committee inquired whether the issue of posting of interns was not within the purview of the Ministry and how it would be addressed. In response, the CS indicated that the issue had not been submitted to the Ministry as well as other matter that were being dealt with by the Ministry of Health including the doctors, nurses and clinical officers.
- c) Regarding whether prosecuting the matters raised in the Petition would be *sub judice*, the Committee informed the CS that the Petitioners had earlier indicated that the issue before court was about the strike and not the matters in the petition and asked the CS to confirm the correct position. The CS indicated that the Ministry of Health had filed a court case seeking restraining orders and the courts would handle the matter.
- d) The Committee sought the opinion of the CS on whether KMPDU was justified to go on strike and how the Ministry would address their concerns. The CS stated that the unions had the right to strike. However, health services were essential and the matters need discussions for a way forward. For instance, the interns were awarded through the CBA to be paid Kshs. 206,000 because of the speciality of the medical field yet a common intern in Kenya was paid Kshs. 25,000. Therefore, there was need to relook by not necessarily bring the Kshs. 206,000 down to Kshs.25,000 but at least a reasonable and affordable figure could be negotiated not to burden the exchequer.

That despite the strike notice that was issued in 2022 but the process on conciliation required investigation which progressed slowly and took time as the dispute was a complex matter with a host of many issues. The Conciliator required information from different government agencies including Ministry of

Health, COG and the 47 governors, PSC, Ministry of National Treasury among others.

- e) The Committee asked about the preparedness of the Ministry to act swiftly to address the issues when they arise instead of waiting for strike notices to be issued. The Ministry indicated that the on the operative CBA of 2017-2021 whose term lapsed, the Ministry of Labour and Social Protection was a neutral party assisting the parties to reconcile negotiation. The Ministry was not in a position to confirm that the CBA had not been implemented since it was just ceased of the matter and reconciliation process included negotiations of parties and was dependent on the facts which were established by way of investigations which the Ministry was involved in.
- f) Regarding the non-implementation of CBAs, the Ministry indicated that the issue of could only be ascertained once the progress of investigations and conciliation was concluded by way of a report or determined in court. As it were, the parties involved were of different opinions and were still making their presentation before the Conciliation Committee.
- g) Regarding whether the CS was aware of the Kericho Declaration Agreement and what the Ministry was doing about it, the CS indicated that the several stakeholders were engaging to find solutions to the several issues despite the budgetary concerns.
- h) The CS also clarified that the Petition covered concerns raised by the other unions and they had filed disputes to the Ministry and the detailed response would include their issues apart from the doctors'. The Committee clarified to the CS that there were other organised unions and association that the Petitioners had alleged that the Ministry had reportedly failed to recognise despite their registration.

Committee Decision

The Committee resolved that the CS, Ministry of Labour and Social Protection provides a detailed written response to the petition and issues raised by Members within one week including—

- i. Recognition of the registered health care workers' unions and associations;
- ii. Progress report on the work undertaken by Conciliation Committee;
- iii. Proposals on the long-term solutions to avert the labour-related issues that occasions perennial strike by health care workers;

MIN./PPETC/2024/080: CONSIDERATION OF PUBLIC PETITION NO. 33 OF 2023 REGARDING COMPENSATION OF PERSONS AFFECTED BY MOMBASA-MARIAKANI ROAD DUALLING PROJECT

Meeting with the Petitioner

The Member for Jomvu Constituency, Hon. Bady Twalib Bady, MP appeared before the Committee and submitted as follows:

- a) He was presenting the Petition on behalf of the people affected by the Mombasa West Community Project of Jomvu Constituency; that is, starting from Jomvu Narcol all the way to Bahati area
- b) THAT, the Kenya National Highways Authority (KeNHA) undertook rehabilitation and expansion of a 41.3 km regional Mombasa Port access road running from Mombasa to Mariakani as part of a 2,000 km-long corridor directly connecting the Port of Mombasa to several neighbouring countries but whose construction has stopped in Jomvu Madafuni where the said road is in a pathetic state despite being the gateway to Mombasa;
- c) THAT, whereas the construction part of the project was financed by the African Development Bank, German KfW, European Investment Bank and the European-Africa Infrastructure Trust Fund, the Government of Kenya was to oversee compensation of all affected persons on the project corridor;
- d) THAT, pursuant to this arrangement, in 2014, KeNHA prepared a faulty resettlement action plan that excluded use of geographic information system on asset inventory tabulation, but later claimed that the project was on public land;
- e) THAT, on its part, the National Land Commission conducted an unclear valuation that led to grave injustice being meted out on the persons affected by the project;
- f) THAT, contrary to expectations and agreement, KeNHA proceeded to brutally evict residents of Jomvu Constituency from their houses without notice in May 2017, whilst the National Land Commission omitted many residents and property-owners from the final compensation list;
- g) THAT, efforts by the affected persons to secure the collaboration and cooperation of KeNHA and the National Land Commission have been futile; and;
- h) THAT, the issues in respect of which this Petition is raised are not pending before any court of law or any constitutional or legal body.
- i) THAT, the Committee:
 - a. urgently intervenes to compel the National Land Commission to compensate the affected persons fairly and in accordance with the actual value of their assets and to disclose the contents of the valuation report, which they have declined to do up to now;
 - b. directs KeNHA to implement the corrective action plan agreed upon with the affected persons and to additionally embrace the use of geographic information system in asset inventory; and,
 - c. makes any other recommendation or action it deems fit in addressing the plight of the petitioners.

Allotment letters- the Committee enquired whether allotment letters had been issued. The petitioner responded that various residents have been given allotment letters that have never been honoured.

Compensation of stakeholders- the Committee was concerned on whether some of the affected persons had been compensated. The petitioner responded that some of the persons have been compensated at meagre amounts which are a far cry from the market value of the land. An example was given of a petitioner who was compensated a sum of Kshs. 600,000, despite officials from Ministry of Lands having valued the land at Kshs. 2.160m. In addition, some of these residents have since died without being compensated.

List of Project Affected Persons- the Committee enquired whether the petitioner had a list of persons that are to be compensated. The Petitioner responded that he had a list of business owners and people around Owino Uhuru, Bangladesh, Birikani Bahati and other areas who had not been compensated.

Proper representation of the Project Affected Persons- the Committee enquired on whether the affected parties constituted a committee to address their matter and whether there was any legal representation by the residents affected by the road in the process of negotiations with the relevant authorities. The petitioner responded that there was no such structure in place.

Relevant documentation- the Committee enquired on whether there was a valuation report from KENHA, how many people had been compensated and at what rate based on the size of land that had been acquired by the project. The petitioner responded that he was not in possession of the required documents.

MIN./PPETC/2024/081: CONSIDERATION OF PUBLIC PETITION NO. 82 OF 2023 REGARDING DELAY IN COMPLETION OF JITONI-RABAI ROAD IN JOMVU SUB-COUNTY

Meeting with the Petitioner

The Member for Jomvu Constituency, Hon. Bady Twalib Bady, MP appeared before the Committee and submitted as follows:


- a) THAT, the Jitoni-Rabai Road was launched by the then Deputy President, who is now our current President, His Excellency William Samoei Ruto, on 16th March 2018 and was meant to link the interior parts of Jomvu Constituency to Rabai Constituency without having to drive to Mazeras;
- b) THAT, the road was part of the old Mombasa-Nairobi Road and links the interior parts of Jomvu to areas like Mazeras and Rabai, thereby complementing the main Mombasa-Nairobi Highway;

- c) THAT, out of the 12 kilometres, the contractor made substantial progress and completed construction of the first nine kilometres, after which he abandoned the site without completing the remaining three kilometres on Jomvu side, despite residents demolishing their houses and businesses to pave way for the construction of the said road;
- d) THAT, the remaining section of the road is dilapidated exposing residents to extremely dusty conditions when it is dry and impassable due to mud accumulated during rainy weather;
- e) THAT, transport costs incurred by residents have tremendously increased due to high maintenance costs of vehicles and motorcycles passed on to users by service providers;
- f) THAT, access to water has been curtailed through destruction of pipes during construction of the road, which cannot be fixed until conclusion of the road construction. This has forced residents to incur exorbitant charges in accessing this basic commodity through purchase of water from water bowsers;
- g) THAT, efforts by the petitioners to have the matter addressed by the Kenya Urban Roads Authority (KURA) under Director-General, Eng. Kinoti, have been futile; and
- h) THAT, the matter presented in this Petition is not pending before any tribunal, court of law or independent body.
- i) Therefore, your humble Petitioners pray that the National Assembly, through the Public Petitions Committee:
 - (i) Compels KURA to complete construction of the road as per the contractual agreement within the next six months; and,
 - (ii) Makes any other recommendation or action it deems fit in addressing the plight of the petitioners.

MIN./PPETC/2024/082:

ADJOURNMENT AND DATE OF NEXT MEETING

The Chairperson adjourned the meeting at 02:30 p.m. The next meeting will be held on Thursday 21st March, 2024 at 09.00 a.m.

fol Sign: 

(CHAIRPERSON)

Date: 29/04/2024

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COUNCIL OF GOVERNORS

DDLPS
Please deal.
[Signature]
04/07/24

Westlands Delta House 2nd Floor, Waiyaki Way.
P.O. BOX 40401-00100,
Nairobi.

Tel: (020) 2403314, 2403313
E-mail: info@cog.go.ke

Our Ref: COG/6/40 Vol.95 (65)

1st July 2024

Mr. Samuel Njoroge
Clerk of the National Assembly
Main Parliament Buildings
NAIROBI

Head, PLS
Please bring to the attention of the Council

Dear *Mr. Njoroge,*

MEETING WITH THE PUBLIC PETITIONS COMMITTEE ON A PUBLIC PETITION REGARDING UNFAIR LABOUR PRACTICES IN THE MEDICAL SECTOR

The above subject and your letter KNA/DLPS/PPETC/CORR/2024/125 dated 20th June 2024 refer.

Further reference is made to the Council's letter Ref: COG/6/40 Vol.93 dated 19th April 2024 wherein we provided responses to the questions raised by the Senate.

Additionally, we note the request to provide further information and wish to respond as follows:

1. Comprehensive submission on the issues raised in the petition that are pending:

ISSUE	STATUS UPDATE	COMMENTS
1. Internship under the Universal Health Coverage program	The Ministry of Health through the Public Service Commission (PSC) recruited interns under the UHC program for one year with a view to offer the young graduands an opportunity in the service. These interns were posted in the County Health facilities for a period of one year and their stipend was paid by the Ministry of Health.	The Internship was for a definite period of one year which ended. Additionally, internship does not necessarily guarantee employment.
2. Delayed posting of medical interns	Internship is part of the in-house training intended to expose medical workers to the world of work. It is also a mandatory post qualification requirement before the graduate doctors can be registered and licensed to practice.	Training is a function of National Government under MOH. MoH to expedite posting of interns to facilitate their training clearance, registration, and subsequent licensing to practice.

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	<p>Posting of medical interns is the mandate of Ministry of Health and therefore the Ministry is in a better position to address the matter.</p> <p>Additionally, the perennial delay in posting interns also affects smooth and uninterrupted service delivery in County Health facilities where the interns train due to inadequate human resource in the County facilities.</p>	
3. Disparity in the Payment of stipends to interns (medical and clinical officers)	<p>Payment of internship stipend is the mandate of the Ministry of Health.</p>	<p>MOH and PSC to develop a comprehensive policy to guide on the management of internship in the health sector, this to include the stipend/ payments payable</p>
4. UHC staff on a three-year contract	<p>In 2020, County Governments in collaboration with the Ministry of Health (MOH) and Public Service Commission (PSC) undertook recruitment of staff of different cadres for a period of three (3) years, running from April 2022 to May 2023, under the Universal Health Care Program (UHC). The recruitment of a total of 9,681 health care workers was informed by gaps identified by county governments and shared with the MOH.</p> <p>Terms and Conditions</p> <p>The staff are supervised and managed by respective county governments but their payroll has been managed by the MOH since the inception of the program.</p> <p>Summit resolution</p> <p>The Summit held in 12th February 2024, resolved that the Ministry of health extends the contracts of the UHC staff for a further period of three years under the same terms and conditions to allow the two levels of Government time to deliberate on the transition with clear modalities on the terms of employment.</p>	<p>The National Treasury to allocate through the budget FY2024/2025 adequate budgetary provision to cater for the UHC and COVID-19 workers salary at the prevailing market rates including the attendant employment benefits such as medical insurance and pension contributions.</p>

	<p>However, PSC renewed the contracts for UHC for a period of one year which lapse between April and October 2024. MOH has further written to COG confirming the extension of UHC contracts for a further two years under the same terms.</p> <p>To date, the Personnel Emoluments for UHC still remains with the Ministry of Health.</p> <p>The Council received a copy of a letter from the Ministry of Health to the Public Service Commission on the transition of the staff under the Universal Health Coverage (UHC) programme i.e. absorption of the staff into permanent terms of employment by the respective County Public Service Boards.</p> <p>COVID-19 Surge Capacity Project (CHERP):</p> <p>In 2020, PSC recruited 605 health care workers for management of the COVID 19 pandemic. Currently there are 441 covid 19 health with an annual budget of 674M workers working in the counties but remunerated by the Ministry of Health.</p> <p>The three-year contracts will expire in the year. National Treasury advised the Ministry of Health to inform counties to absorb the 441 COVID 19 workers.</p> <p>County Governments are unable to absorb the aforementioned staff without the requisite budget.</p>	
<p>5. Collective Bargaining agreements</p>	<p>County Governments have recognized three unions in the health sector:</p> <ul style="list-style-type: none"> • Kenya National Union of Nurses (KNUN)- December 2016 • Kenya Medical Practitioners and Pharmacists and Dentist Union - July 2017 • Kenya Union of Clinical Officers - December 2017 	<p>County Governments are the employers of the members of trade Unions, and therefore the respective Unions are advised to initiate negotiations with the respective County Governments for purposes of entering into the</p>

Further, we wish to register our apologies on behalf of **H. E Governor Muthomi Njuki, Chair of COG Health Committee** who will not be able to attend the committee meeting due to another pre-scheduled activity in Tharaka Nithi County.

The Council remains available for further discourse on the subject.

Please be assured of our highest esteem and consideration.

Yours *Sincerely,*



Mary Mwiti
Chief Executive Officer



REPUBLIC OF KENYA
THE NATIONAL TREASURY AND ECONOMIC PLANNING

Telegraphic Address: 22921
FINANCE – NAIROBI
Fax No. 315779
Telephone: 2252299

THE NATIONAL TREASURY
P.O. Box 30007 - 00100
NAIROBI
KENYA

Ref. TNT/CONF 51/07 'P' (54)

Date: 11th September, 2024

Mr. Samuel Njofoge, CBS
Clerk of the National Assembly
Parliament Buildings,
NAIROBI

Dear

Re: **SUBMISSION OF RESPONSES TO ISSUES RAISED IN
PUBLIC PETITIONS NOS. 46 OF 2023 AND NO. 06 OF 2024.**

Reference is made to your letter No. KNA/DLPS/PPETC/CORR/2024/142 dated 27th August, 2024 on the matter in caption. I have been invited to a meeting with the National Assembly Public Petitions on **Thursday, 12th September, 2024 at 12.00 noon** to respond to the following Public Petitions:

1. Public Petition No. 03 of 2023 regarding Management of SGR Services.
2. Public Petition No. 46 of 2023 regarding Payment of Retirement Dues and Pension for retired Teachers.
3. Public Petition No. 06 of 2024 regarding Delays in Posting medical interns, absorption of universal health coverage contract staff, conclusion of Collective Bargaining Agreements in the Health Sector in the country; and
4. Public Petition No. 80 of 2023 regarding release of the Free Day Secondary Education Capitation Deficit for the Academic Year 2019 and the Financial Years 2020/2021 to 2022/2023 by the National Treasury.

Attached to this letter is a written submission from the National Treasury and Economic Planning on the Public Petitions Nos. 46, 80 of 2023 and No. 06 of 2024. On Public Petition No. 03 of 2023 regarding management of SGR Services, the National Treasury is currently consulting Kenya Railways Corporation (KRC) and other Government Agencies and therefore not prepared to provide a comprehensive brief on the issues raised in the said Public Petition.

The purpose of this letter therefore, is to submit our responses to the Issues raised in the three Public Petitions and request for a res-schedule of my appearance before the Honorable Committee to a later date in two weeks' time once we have a detailed brief on management of SGR Services.

Please Consider.

Yours

HON. CPA JOHN MBADI NG'ONGO, EGH, MP
CABINET SECRETARY

Copy: Hon. Mbai, Nimrod Mbithuka, MP
The Chairperson
Public Petitions Committee
The National Assembly
NAIROBI





REPUBLIC OF KENYA
THE NATIONAL ASSEMBLY

MINUTES OF THE 61ST SITTING OF THE PUBLIC PETITIONS COMMITTEE HELD ON SATURDAY, NOVEMBER 09, 2024, IN MEDUSA 2 ROOM, ENGLISH POINT MARINA AT 02.00. P.M

PRESENT

- | | | |
|---|---|------------------|
| 1. Hon. Nimrod Mbithuka Mbai, M.P. | - | Chairperson |
| 2. Hon. Janet Jepkemboi Sitienei, M.P. | - | Vice Chairperson |
| 3. Hon. Maisori Marwa Kitayama, MP | | |
| 4. Hon. Edith Vethi Nyenze, M.P | | |
| 5. Hon. (Eng.) Bernard Muriuki Nebart, M.P. | | |
| 6. Hon. Suzanne Ndunge Kiamba, M.P. | | |
| 7. Hon. Ernest Ogesi Kivai, M.P. | | |
| 8. Hon. Joshua Chepyegon Kandie, M.P | | |
| 9. Hon. Bidu Mohamed Tubi, M.P. | | |
| 10. Hon. Peter Mbogho Shake, M.P. | | |
| 11. Hon. John Walter Owino, M.P. | | |

APOLOGIES

1. Hon. Patrick Makau King'ola, M.P.
2. Hon. Caleb Mutiso Mule, M.P.
3. Hon. John Bwire Okano, M.P.
4. Hon. Sloya Clement Logova, M.P.

SECRETARIAT

- | | |
|-------------------------|------------------------------|
| 1. Mr. Samuel Kalama | Principal Clerk Assistant II |
| 2. Mr. Ahmad Kadhi | Principal Clerk Assistant II |
| 3. Ms. Roselyn Njuki | Senior Sergeant at Arms I |
| 4. Ms. Anne Shibuko | Clerk Assistant I |
| 5. Ms. Patricia Gichane | Legal Counsel II |
| 6. Mr. Issaac Nabiswa | Legal Counsel II |
| 7. Mr. Willis Obiero | Clerk Assistant III |
| 8. Ms. Nancy Akinyi | Research Officer III |
| 9. Mr. Benson Muchiri | Audio Officer |
| 10. Mr. Calvin Karungo | Media Relations Officer III |

MIN./PPETC/2024/387: PRELIMINARIES

The Chairperson called the meeting to order at 10:00 a.m. and proceedings began with prayers by Hon. Joshua Kandie, M.P.

MIN./PPETC/2024/388: ADOPTION OF AGENDA
AGENDA

1. Prayer
2. Adoption of the Agenda
3. Confirmation of minutes of previous sittings

4. Matters Arising
5. Consideration of Public Petition No. 45 of 2023 regarding delayed adjudication and Settlement of Residents of Kidomaya/Miungoni Village in Vanga Ward in Lunga Lunga Constituency
6. Consideration of Public Petition No. 06 of 2024 regarding delays in posting Medical Interns, Absorption of Universal Health Coverage (UHC) Contract Staff, Conclusion of Collective Bargaining Agreement (CBAs) and Recognition of Agreement in the Health Sector in the Country
7. Consideration of Public Petition No. 31 of 2023 regarding Review of Boundaries of the Tana Delta
8. Any Other Business
9. Adjournment

The Agenda was adopted to constitute business having been proposed by Hon. Joshua Kandie, M.P. and seconded by Hon. Bidu Tubi, M.P.

MIN./PPETC/2024/389: CONFIRMATION OF MINUTES OF PREVIOUS SITTINGS

The Agenda was deferred.

MIN./PPETC/2024/390: CONSIDERATION OF PUBLIC PETITION NO. 45 OF 2023 REGARDING DELAYED DJUDICATION AND SETTLEMENT OF RESIDENTS OF KIDOMAYA/MIUNGONI VILLAGE IN VANGA WARD IN LUNGA LUNGA CONSTITUENCY

Observations

The Committee considered the draft report and observed that:

- i. While records at the Ministry of Lands indicate that the parcels of land are owned privately and that the process of further subdivision can only be initiated by the registered owner, the National Lands Commission has previously acted on the premise that the land reverted to the County Government of Kwale upon expiry of the lease.
- ii. A court ruling declared that the Public Notice by the National Land Commission (Respondent) was irregular, unreasonable and procedurally unfair as the land belonged to the petitioner in the case, Karsan Velji Velani.
- iii. The conflicting interpretations have resulted in the County Government of Kwale seeking adverse possession of the land.

Recommendations

Pursuant to the provisions of Standing Order 227, the Committee made the following recommendations—

- i. On the prayer that the Committee inquires into the ownership of the land, Plot No. 12224, occupied by the residents of Kidomaya/Miungoni Village in Vanga Ward of Kiwegu Sub-Location in Lungalunga Sub County, the Committee undertook this inquiry by listening to the various stakeholders and state agencies and established that the land was subdivided in compliance with a court ruling and now registered under the names Karsan

V. Velani & Manji V. Velani (L.R. No. 12224/6), County Government of Kwale (L.R. No. 12224/5) and Muungano Self Help Group (LR. No. 12224/1).

- ii. On the prayer that the Committee investigates the cause of continue delay in carrying out the adjudication and settlement of the residents of Kidomaya/Miuongoni Village in Vanga Ward of Kiwegu Sub-Location in Lungalunga Sub County, the Committee notes that the land is privately owned by three parties being Karsan V. Velani & Manji V. Velani (L.R. No. 12224/6), County Government of Kwale (L.R. No. 12224/5) and Muungano Self Help Group (LR. No. 12224/1), hence the adjudication can only be initiated by the registered owners if necessary.
- iii. On the prayer that that the Government under the one-million-acre Compulsory Land Acquisition Programme, acquires the land for the local residents and that the land be adjudicated so as to ensure that residents acquire title deeds, the Committee recommends that County Government of Kwale resettles the squatters on the land L.R. No. 12224/5 as planned and budgeted.

MIN./PPETC/2024/391: CONSIDERATION OF PUBLIC PETITION NO. 06 OF 2024 REGARDING DELAYS IN POSTING MEDICAL INTERNS, ABSORPTION OF UNIVERSAL HEALTH COVERAGE (UHC) CONTRACT STAFF, CONCLUSION OF COLLECTIVE BARGAINING AGREEMENT (CBAS) AND RECOGNITION OF AGREEMENT IN THE HEALTH SECTOR IN THE COUNTRY

Observations

The Committee considered the draft report and observed that:

- i. Internship for health practitioners is a mandatory requirement for registration and subsequent licensing to practice.
- ii. The allocation of Kshs.20.4 billion from FY 2019/2020 to FY 2023/2024 towards posting of graduate interns for mandatory internship has not been sufficient to accommodate all the graduate interns coming through the years.
- iii. The delay in posting of interns affects the smooth running and interrupts service delivery in county health facilities as the facilities have inadequate human resources.
- iv. KMPDU was agitating for posting of interns based on the 2017-2021 CBA for which the Ministry of Health had no budgetary provisions to cater for the resultant costs. However, the matter was pending before the Employment and Labour Relations Court in Eldoret under Petition No. E003 of 2024. The Judgement was delivered on 17th October 2024, where the court ordered the parties to renegotiate on the terms of interns provided for in the CBA.
- v. There were clear disparities in remuneration across the different cadres of health workers, for instance laboratory or nutritionists or dietician cadres were not remunerated during their internship.

- vi. The contracts for the UHC staff have been extended over the years, to allow for the two levels of governments time to deliberate on the modalities on the permanent and pensionable terms, with the latest extension set for a further two years after the lapse between April and October 2024.
- vii. Transitioning the UHC staff to permanent and pensionable terms has not been possible due to inadequate budgetary allocation to county governments which are expected to absorb both UHC and CHERP staff.
- viii. The disparity in compensation of interns in the health sector was occasioned by the fact that the Ministry of Health was allocated Kshs5.7 billion to cater for the internship programme which was not enough to place all the interns at the initial stipend rates. Therefore, the rates were revised to accommodate 3759 interns from April 2024.
- ix. County Governments had recognized three unions in the health sector namely, the Kenya National Union of Nurses (KNUN) (December 2016); Kenya Medical Practitioners and Pharmacists and Dentist Union (July 2017); and Kenya Union of Clinical Officers (December 2017). Only six (6) county governments had signed and executed the recognition agreements with the respective unions.
- x. The Ministry of Health was in the process of receiving requests for recognition agreements from health sector unions and was in the process of verifying submitted membership list as required under the Labour Relations Act.

Recommendations

Pursuant to the provisions of Standing Order 227, the Committee made the following recommendations—

- i. The Ministry of Health in collaboration with Public Service Commission (PSC), SRC and all relevant stakeholders to fast-track the comprehensive policy proposal to guide on the management of internship in the health sector to address concerns about postings and disparities witnessed in the payment of stipends to interns. The Ministry of Health to present the policy proposal to the Committee on Health within ninety (90) days of tabling of this report.
- ii. The Ministry of Health in collaboration with the Council of Governors fast-tracks and presents a policy proposal on the employment of the UHC and CHERP staff on permanent and pensionable terms, including budgetary provision, to the Committee on Health within sixty (60) days. In the meantime, the Ministry of Health and the county governments continuously renews the contracts for UHC and CHERP staff until adequate provision of budget for their employment on permanent and pensionable terms.
- iii. Health sector unions without recognition agreements to engage the Council of Governors and the Ministry of Health to develop a framework as per the provisions of Section 54 (3) the Labour Relations Act. The Cabinet Secretary in charge of the Ministry of Health and the Council of Governors

to facilitate the verification of the membership register of the various unions to fast-track the adoption of recognition agreements across the 47 counties.

MIN./PPETC/2024/391: CONSIDERATION OF PUBLIC PETITION NO. 31 OF 2023 REGARDING REVIEW OF BOUNDARIES OF THE TANA DELTA

Observations

The Committee considered the draft report and observed that:

- (i) The Tana Delta Irrigation Project initiated by TARDA had covered an area of about 77,500 acres with the Authority undertaking a rice scheme project in about 4,000 acres with a possibility of extension by 30,000 acres. The proposed project plan aims to develop about 12,000 hectares of land
- (ii) The southern parts of the TDIP land referred by the Petitioner is occupied by local communities while the eastward side towards Boni Forest is expansive and secluded by nature making it a potential security threat.
- (iii) On 3rd February 1987 the Commissioner of Lands gave authority to TARDA to utilise the land for purposes of development. TARDA was later lawfully issued with the grant No. IR 152049 LR No. 28026 by the Ministry of Land on 20th November 2013.
- (iv) The public participation and community engagement undertaken by TARDA during the implementation of TDIP was not extensive.

Recommendations

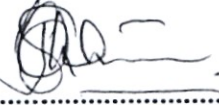
Pursuant to the provisions of Standing Order 227, the Committee made the following recommendations—

- (i) On the proposal for the review of the boundaries of land managed by the Tana Delta Irrigation Project in order to, among other interventions, ensure that the Tana Delta Irrigation Project does not extend beyond the southern parts of Garsen-Lamu Road and should instead be extended eastwards towards the border of Boni Forest to create a security buffer zone. The Committee rejects this prayer based on public and national interest of the project, as such a review will be economically unsustainable as TARDA has invested Kshs 6 billion on the project.
- (ii) On the proposal to facilitate the clear demarcation of boundaries of TARDA land from the general community land. The Committee recommends that the National Land Commission undertakes a survey of any community land within the Tana Delta and if there were any historical injustices occasioned to the community upon the issuance of allotment in 1987 and grant of LR No. 152049 to TARDA.
- (iii) On the proposal to compel TARDA to comprehensively engage residents of Tana River in all aspects of the project's design and implementation, the Committee recommends that TARDA undertakes an extensive periodic and continuous public participation exercise on the project design and implementation to sensitize the community on the phases of the project and its impact to the community and the county.

MIN./PPETC/2024/394:

ADJOURNMENT AND DATE OF NEXT MEETING

The Chairperson adjourned the meeting at 02:00 p.m. The date of the next meeting will be communicated by Notice.

Sign: 

for (CHAIRPERSON)

Date: 19-11-2024