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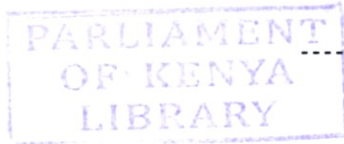
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THE NATIONAL ASSEMBLY

THIRTEENTH PARLIAMENT - THIRD SESSION - 2024

PUBLIC PETITIONS COMMITTEE



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' Ahmed 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 18<sup>th</sup> 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 18<sup>th</sup> 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 19<sup>th</sup> 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.