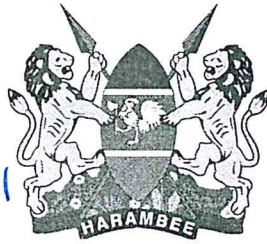


REPUBLIC OF KENYA



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Recommended for approval
for tabling.
Eg 02/08/19

PARLIAMENT OF KENYA

THE SENATE

TWELFTH PARLIAMENT

THIRD SESSION

THE STANDING COMMITTEE ON HEALTH

Approved
6/8/2019

REPORT ON PETITION CONCERNING DETERIORATING HEALTHCARE
SERVICES IN WEST POKOT COUNTY

PAPERS LAID	
DATE	7/8/2019
TABLED BY	Chairperson
COMMITTEE	Health
CLERK AT THE TABLE	CM

Clerk's Chambers,
First Floor,
Parliament Buildings,
NAIROBI.

July, 2019

PREFACE

Mr. Speaker Sir,

On 29 March, 2018, a public petition by residents of West Pokot County was tabled before the Senate and committed to the Standing Committee on Health pursuant to Standing Order No. 226(1) of the Senate Standing Orders.

The petition was in relation to deteriorating healthcare services in West Pokot County owing to incessant theft of key health care instruments and equipment at Kapenguria Referral Hospital; neglect of duty by the County Executive Member in charge of Health who was also the Deputy Governor of West Pokot County; appointment of unqualified and incompetent persons to various positions; harassment and irregular treatment of health workers perceived to have been loyal to the former county regime; and, payment of full monthly salaries and other benefits to 77 county staff, among them health workers, who had been sent on compulsory leave.

In conducting its investigations, the Committee met with key parties in relation to the petition including: the Governor of West Pokot County, the Chief Officer of Health, members of the County Health Management Team, members of the Hospital Management Team of Kapenguria Referral Hospital and the petitioners.

The Committee findings and determinations arising from this process are contained in this report.

Mandate of the Standing Committee on Health

The Senate Standing Committee on Health is mandated, under the Second Schedule of the Senate Standing Orders, to, *“to consider all matters relating to medical services, public health and sanitation.”*

Committee Membership

The Membership of the Committee is composed of the following:

1. Sen. (Dr.) Michael Malinga Mbito - Chairperson
2. Sen. (Dr.) Ali Abdullahi Ibrahim - Vice-Chairperson
3. Sen. Beth Mugo
4. Sen. Nderitu John Kinyua
5. Sen. Iman Falhada Dekow
6. Sen. Okong’o Omogeni
7. Sen. Naomi Shinyonga
8. Sen. Petronilla Were Lokorio
9. Sen. Fred Outa

Mr. Speaker Sir,

The Standing Committee on Health wishes to thank the Offices of the Speaker and the Clerk of the Senate for their support during the process of considering this petition.

Mr. Speaker Sir,

It is now my pleasant duty and privilege to present this report of the Standing Committee on Health, for consideration and approval by the House pursuant to Standing Order No. 226(2) of the Senate Standing Orders.

Signed.....  Date..... 18-07-2019

SEN. MBITO MICHAEL MALING'A, MP
CHAIRPERSON, STANDING COMMITTEE ON HEALTH

ADOPTION OF THE REPORT OF THE STANDING COMMITTEE ON HEALTH OF THE SENATE

We, the undersigned Members of the Standing Committee on Health of the Senate, do hereby append our signatures to adopt the Report-

- | | | |
|-------------------------------------|------------------|--|
| 1. Sen. (Dr.) Michael Malinga Mbito | Chairperson |  |
| 2. Sen. (Dr.) Ali Abdullahi Ibrahim | Vice-Chairperson |  |
| 3. Sen. Beth Mugo | Member |  |
| 4. Sen. Nderitu John Kinyua | Member |  |
| 5. Sen. Iman Falhada Dekow | Member |  |
| 6. Sen. Okong'o Omogeni | Member |  |
| 7. Sen. Naomi Shinyonga | Member | |
| 8. Sen. Petronilla Were Lokorio | Member | |
| 9. Sen. Fred Outa | Member | |

TABLE OF CONTENTS

EXECUTIVE SUMMARY	7
CHAPTER ONE: INTRODUCTION	12
1. Background	12
2. Summary of Allegations Raised in the Petition	12
3. Prayers to the Senate	13
CHAPTER TWO: LEGAL AND POLICY PROVISIONS RELATING TO THE PETITION	15
1. Role and Mandate of Parliament	15
2. Right to Petition Parliament	15
3. Right to the Highest Attainable Standard of Health	15
4. The County Government Act 2012	16
5. Values and Principles of Public Service	17
6. The Public Audit Act	17
7. The Ethics and Anti-Corruption Act	18
8. Anti-Corruption and Economic Crimes Act	19
9. Commission in Administrative Justice Act	19
CHAPTER THREE: SUBMISSIONS ON THE PETITION	21
A. Courtesy Call to the Office of the County Commissioner	21
B. Joint Meeting with the West Pokot County Assembly Committee on Health, the Petitioner, Representatives of the County Health Management Team and Representatives of the Hospital Management Management Team	21
I. Submissions by the Petitioners	22
II. Submissions by the County Health Management Team	25
III. Meeting with the County Governor	26
CHAPTER FOUR: COMMITTEE DETERMINATIONS	28

EXECUTIVE SUMMARY

On 29 March, 2018, a public petition by residents of West Pokot County was tabled before the Senate and committed to the Standing Committee on Health pursuant to Standing Order No. 226(1) of the Senate Standing Orders.

The petition was in relation to deteriorating healthcare services in West Pokot County owing to incessant theft of key health care instruments and equipment at Kapenguria Referral Hospital; neglect of duty by the County Executive Member in charge of Health who was also the Deputy Governor of West Pokot County; appointment of unqualified and incompetent persons to various positions; harassment and irregular treatment of health workers perceived to have been loyal to the former county regime; and, payment of full monthly salaries and other benefits to 77 county staff, among them health workers, who had been sent on compulsory leave.

In their prayers, the petitioners requested the Senate to:-

1. Order a forensic audit and physical count of instruments and equipment in Kapenguria County Referral Hospital.
2. Commission a special team to investigate the loss of an UltraSound Machine and other equipment in Kapenguria County Referral Hospital.
3. Recommend that the Deputy Governor relinquishes the position of CECM i/c of Health as a matter of public interest.
4. Establish the cumulative number of days the Deputy Governor has spent in the United States attending to his personal engagements at the expense of serving the people who gave him a mandate.
5. Establish whether public funds have been incurred to finance the Deputy Governor's notorious piecemeal trips to USA and back and whether he sought clearance from relevant government authorities as required by state officers.

6. Recommend appropriate action be initiated against the Deputy Governor for abuse of office and other related violations that the Senate may deem fit and necessary;
7. Recommend that a Human Resource Audit be undertaken on employment of new health and other county staff by West Pokot County Government for the period starting 1st October to date;
8. Recommend whether it is viable for staff on compulsory leave to continue enjoying salaries and other benefits for work not done;
9. Recommend a comprehensive job analysis and job evaluation for West Pokot County, Ministry of Health;
10. Recommend appropriate action for any form of malpractice during the employment of health and other staff in West Pokot County, and/or
11. Make any other order/direction that it may deem fit in the circumstances of this matter.

In respect of the prayers made in the petition, the Committee made the following determinations:

1. **Prayer One:** *Order a forensic audit and physical count of instruments and equipment in Kapenguria County Referral Hospital.*

Committee Response: By the petitioners own admission, the loss of an UltraSound machine from Kapenguria Referral Hospital was the key concern in relation to this prayer. The machine has since been recovered and is currently in use at the hospital. Following a visit to the Kapenguria Referral Hospital, the Committee in respect of this prayer is satisfied that the hospital management has put in place adequate measures to provide for the safe-keeping of all hospital equipment and instruments under its care.

2. **Prayer Two:** Commission a special team to investigate the loss of an UltraSound Machine and other equipment in Kapenguria County Referral Hospital.

Committee Response: The Committee in respect of this prayer notes that the UltraSound machine was recovered and is in use at the hospital. The key suspect to the loss of the machine was apprehended. Court proceedings are ongoing.

3. **Prayer Three:** Recommend that the Deputy Governor relinquishes the position of CECM i/c of Health as a matter of public interest.

Committee Response: The Committee in respect of this prayer notes that the Deputy Governor has since relinquished the position of CECM in charge of health.

4. **Prayer Four:** Establish the cumulative number of days the Deputy Governor has spent in the United States attending to his personal engagements at the expense of serving the people who gave him a mandate.

Committee Response: The Committee in respect of this prayer hereby instructs the Office of the Auditor-General and the Ethics and Anti-Corruption Committee to establish the actual time spent by the Deputy Governor in the United States on official duty, and on his own personal engagements for the period between September, 2017 and March 2018

5. **Prayer Five:** Establish whether public funds have been incurred to finance the Deputy Governors notorious piecemeal trips to USA and back and whether he sought clearance from relevant government authorities as required by state officers.

Committee Response: The Committee in respect of this prayer hereby instructs the Auditor-General to, in accordance with Section 37 of the Public Audit Act, establish whether any public resources were used to

finance any personal trips to the US undertaken by the Deputy Governor and if so, to recommend options for recovery of the said public resources.

6. **Prayer Six:** *Recommend appropriate action be initiated against the Deputy Governor for abuse of office and other related violations that the Senate may deem fit and necessary.*

Committee Response: The Committee in respect of this prayer recommends that the Ethics and Anti-Corruption Commission investigate the Deputy Governor for abuse of office and other related violations in accordance with Section 11(1) of the Ethics and Anti-Corruption Act.

7. **Prayer Seven:** *Recommend that a Human Resource Audit be undertaken on employment of new health and other county staff by West Pokot County Government for the period starting 1st October to date.*

Committee Response: The Committee in respect of this prayer instructs the Ethics and Anti-Corruption Commission and the Commission on Administrative Justice to investigate whether the County Public Service Board of West Pokot County is liable for abuse of office in its conduct of the process of recruitment and/or promotion of staff to various positions in the health sector; and, whether the suspended staff of West Pokot County have continued to enjoy full salaries and benefits for work not done. And further, to recommend appropriate action as may be required.

8. **Prayer Eight:** *Recommend whether it is viable for staff on compulsory leave to continue enjoying salaries and other benefits for work not done.*

Committee Response: As provided for under 'Prayer 7' above.

9. **Prayer Nine:** *Recommend a comprehensive job analysis and job evaluation for West Pokot County, Ministry of Health.*

Committee Response: As provided for under 'Prayer 7' above.

10. **Prayer Ten:** *Recommend appropriate action for any form of malpractice during the employment of health and other staff in West Pokot County, and/or*

Committee Response: As provided for under 'Prayer 7' above.

In light of the above, the Committee resolves that:

1. This report be dispatched to the Office of the Auditor-General for the purposes of establishing the actual time spent by the Deputy Governor in the United States on official duty *vis a vis* his own personal engagements for the period between September, 2017 and March 2018; and, establishing whether any public resources were used to finance any personal trips to the US undertaken by the Deputy Governor and if so, to recommend appropriate action **within 3 months** receipt of this report.
2. This report be dispatched to the Ethics and Anti-Corruption Commission and the Commission on Administrative Justice to investigate the alleged abuse of office and other violations in the management of West Pokot County health staff as contained in this report within a period of **six months**.

CHAPTER ONE: INTRODUCTION

1. Background

On 29 March, 2018, a public petition by residents of West Pokot County was tabled before the Senate and committed to the Standing Committee on Health pursuant to Standing Order No. 226(1) of the Senate Standing Orders.

The petition was in relation to deteriorating healthcare services in West Pokot County owing to incessant theft of key health care instruments and equipment at Kapenguria Referral Hospital; neglect of duty by the County Executive Member in charge of Health who was also the Deputy Governor of West Pokot County; appointment of unqualified and incompetent persons to various positions; harassment and irregular treatment of health workers perceived to have been loyal to the former county regime; and, payment of full monthly salaries and other benefits to 77 county staff, among them health workers, who had been sent on compulsory leave.

2. Summary of Allegations Raised in the Petition

A summary of the allegations raised in the petition are outlined below: -

(a) Theft of hospital equipment and instruments.

- Incessant loss of hospital equipment and instrument, the latest an Ultra Sound Machine.
- Frustration of investigative efforts by county government officials.

(b) Appointment of the Deputy Governor as the CECM in-charge of Health.

- Reducing health care standards in the county following the appointment of the Dep. Governor as CECM i/c of Health.

(c) Irregular and non-competitive employment of health and other county workers.

- Irregular, non-competitive and unprocedural employment of health and other county staff.

- Employment of unqualified and incompetent county staff based on political affiliation.

(d) Harrassment, irregular, punitive, malicious transfer and demotion of health staff.

- Harrassment, irregular, punitive, malicious transfer and demotion of staff perceived to be loyal to the former County regime.
- Poor health service delivery leading to avoidable deaths, negligence and loss of public resources.
- Intimidation and violence by a youth group known as New Red Army (NRA).
- Payment of full monthly salaries and other benefits of staff on 77 county staff on compulsory leave.

3. Prayers to the Senate

The petitioners therefore prayed that the Senate -

1. Orders a forensic audit and physical county of instruments and equipment in Kapenguria County Referral Hospital.
2. Commissions a special team to investigate the loss of an Ultra Sound Machine and other equipment in Kapenguria County Referral Hospital.
3. Recommends that the Deputy Governor relinquishes the position of CECM i/c of Health as a matter of public interest.
4. Establish the cumulative number of days the Deputy Governor has spent in the United States attending to his personal engagements at the expense of serving the people who gave him a mandate.
5. Establish whether public funds have been incurred to finance the Deputy Governors notorious piecemeal trips to USA and back and whether he sought clearance from relevant government authorities as required by state officers.

6. Recommends appropriate action be initiated against the Deputy Governor for abuse of office and other related violations that the Senate may deem fit and necessary;
7. Recommends that a Human Resource Audit be undertaken on employment of new health and other county staff by West Pokot County Government for the period starting 1st October to date;
8. Recommends whether it is viable for staff on compulsory leave to continue enjoying salaries and other benefits for work not done;
9. Recommends a comprehensive job analysis and job evaluation for West Pokot County, Ministry of Health;
10. Recommend appropriate action for any form of malpractice during the employment of health and other staff in West Pokot County, and/or
11. Makes any other order/direction that it may deem fit in the circumstances of this matter.

CHAPTER TWO: LEGAL AND POLICY PROVISIONS RELATING TO THE PETITION

1. Role and Mandate of Parliament

Articles 94 as read together with Article 96 of the Constitution provides for the role of Parliament in general, and the Senate in particular. Generally, the Houses of Parliament exercise the legislative mandate of the people, deliberate on matters of national interest and oversight the exercise of power by other arms of government.

2. Right to Petition Parliament

The right to petition Parliament is provided for under Article 119 of the Constitution, which provides as follows:-

“Every person has a right to petition Parliament to consider any matter within its authority, including enacting, amending or repealing any legislation. Parliament shall make provision for the procedure for the exercise of this right.”

Further, Standing Order 226 the Senate Standing Order outlines the procedure for the committal of a petition to a Committee and transmission of its decision to the Petitioner. The Standing Committee on Health is mandated to consider all matters related to medical services, public health and sanitation. Further, the Petition to Parliament (Procedure) Act, 2012 and the Standing Orders of the Senate provide for the procedure to be followed in the submission, processing and consideration of a Petition.

3. Right to the Highest Attainable Standard of Health

Article 43 (1)(a) of the Constitution guarantees every person the right to *'the highest attainable standard of health, which includes the right to health care services, including reproductive health care'*.

4. The County Government Act 2012

Section 32 (3) of the County Government Act states that a *"governor may assign the deputy governor any other responsibility or portfolio as a member of the county executive committee."*

Section 40(1) provides for the removal of a member of a county executive committee from office on the basis of: *(a) incompetence; (b) abuse of office; (c) gross misconduct; (d) failure, without reasonable excuse, or written authority of the governor, to attend three consecutive meetings of the county executive committee; (e) physical or mental incapacity rendering the executive committee member incapable of performing the duties of that office; or, (f) gross violation of the Constitution or any other law.*

Section 40, sub-sections (2-6) provide for the dismissal of a member of a county executive committee as follows:

1. *A member of the county assembly, supported by at least one-third of all the members of the county assembly, may propose a motion requiring the governor to dismiss a county executive committee member on any of the grounds set out in subsection (1).*
2. *If a motion under subsection (2) is supported by at least one-third of the members of the county assembly—*
 - a) *the county assembly shall appoint a select committee comprising five of its members to investigate the matter; and*
 - b) *the select committee shall report, within ten days, to the county assembly whether it finds the allegations against the county executive committee member to be substantiated.*

3. *The county executive committee member has the right to appear and be represented before the select committee during its investigations.*
4. *If the select committee reports that it finds the allegations—*
 - c) *unsubstantiated, no further proceedings shall be taken; or*
 - d) *substantiated, the county assembly shall vote whether to approve the resolution requiring the county executive committee member to be dismissed.*
5. *If a resolution under subsection (5)(b) is supported by a majority of the members of the county assembly—*
 - (a) *the speaker of the county assembly shall promptly deliver the resolution to the governor; and*
 - (b) *the governor shall dismiss the county executive committee member.*

That notwithstanding, Section 31 of the CGA 2012 states that a governor “(a) may, despite section 40, dismiss a county executive committee member at any time, if the governor considers that it is appropriate or necessary to do so”. Further, a governor is obligated to “dismiss a county executive committee member, if required to do so by a resolution of the county assembly as provided under section 40” of the CGA 2012.

5. Values and Principles of Public Service

That Article 232 Constitution states that the values and principles of public service apply to both levels of government and include-

- (a) responsive, prompt, effective, impartial and equitable provision of services;...
- (b) accountability for administrative acts;...
- (c) subject to paragraphs (h) and (i), fair competition and merit as the basis of appointments and promotions;.

6. The Public Audit Act

Section 37 of the Public Audit Act provides that *the Auditor-General may, upon request by Parliament, conduct forensic audits to establish fraud, corruption or other financial improprieties.* Further, Section 38 of the Act provides that *the Auditor-General may examine the public procurement and asset disposal process of a state organ or a public entity with a view to confirm as to whether procurements were done lawfully and in an effective way.* Finally, Section 39 (1) of the Act states that *all reports of an audit shall be submitted to Parliament or the relevant county assembly.*

7. The Ethics and Anti-Corruption Act

The Ethics and Anti- Corruption Act bestows the Ethics and Anti-Corruption Commission with the following powers:-

Section 11 (1) of the Act empowers the Commission to-

- a) receive complaints on the breach of the code of ethics by public officers;
- b) investigate and recommend to the Director of Public Prosecutions the prosecution of any acts of corruption, bribery or economic crimes or violation of codes of ethics or other matter prescribed under this Act, the Anti-Corruption and Economic Crimes Act or any other law enacted pursuant to Chapter Six of the Constitution;...
- c) recommend appropriate action to be taken against State officers or public officers alleged to have engaged in unethical conduct;...

Section 13 (2) of the Act also empowers the Commission to conduct investigations on its own initiative or on a complaint made by any person.

8. Anti-Corruption and Economic Crimes Act

Section 45 (2) of the Anti-Corruption and Economic Crimes Act states that a person whose functions concern the administration, custody, management, receipt or use of any part of the public revenue or public property is guilty of an offence if the person-

(a) fraudulently makes payment or excessive payment from public revenues for— ... (iii) services not rendered or not adequately rendered,

(b) wilfully or carelessly fails to comply with any law or applicable procedures and guidelines relating to the management of funds or incurring of expenditures;

Further, Section 46 of the Anti-Corruption and Economic Crimes Act states that *“A person who uses his office to improperly confer a benefit on himself or anyone else is guilty of an offence.”*

9. Commission in Administrative Justice Act

Section 8 of the Commission in Administrative Justice Act empowers the Commission to-

(a) investigate any conduct in state affairs, or any act or omission in public administration by any State organ, State or public officer in National and County Governments that is alleged or suspected to be prejudicial or improper or is likely to result in any impropriety or prejudice;

(b) investigate complaints of abuse of power, unfair treatment, manifest injustice or unlawful, oppressive, unfair or unresponsive official conduct within the public sector;....

CHAPTER THREE: SUBMISSIONS ON THE PETITION

The Committee visited West Pokot County on 22 October, 2019, where it held meetings with the following parties relevant to the petition-

- a) Representatives of the West Pokot County Executive led by the County Governor
- b) Representatives of the West Pokot County Assembly Committee on health
- c) The County Health Management Team
- d) The Health Management Team of Kapenguria Referral Hospital
- e) The Petitioners.

The Standing Committee on Health was represented by-

1. Sen. Mbito Michael Malinga - **Chairperson**
2. Sen. Nderitu John Kinyua
3. Sen. Petronilla Were
4. Sen. Falhada Dekow

A. Courtesy Call to the Office of the County Commissioner

The Committee made a courtesy call to the Office of the County Commissioner where they were well received and briefly apprised of the situation in West Pokot.

B. Joint Meeting with the West Pokot County Assembly Committee on Health, the Petitioner, Representatives of the County Health Management Team and Representatives of the Hospital Management Management Team

I. Submissions by the Petitioners

Mr. Dennis, who spoke on behalf of the petitioners, begun his submissions by introducing the petitioners present.

He confirmed to the meeting that the key issues in relation to the petition were as follows:

1. Theft of hospital equipment, instruments and medicines at Kapenguria Referral Hospital.
2. Appointment of the Deputy Governor as the CECM in-charge of Health.
3. Irregular and non-competitive employment of health and other county workers.
4. Harassment, irregular, punitive, malicious transfer and demotion of health staff.

i) Theft of hospital equipment at Kapenguria Referral Hospital

On the matter of theft of hospital equipment at the Kapenguria Referral Hospital, he stated that loss of an ultrasound machine from the hospital had caused the greatest public concern. He alleged that the County leadership's response to the loss of the machine had been to resort to the use of sorcery, witchcraft and traditional means to catch the thieves.

He further alleged that the county health management team had attempted to hoodwink the public into believing that the ultrasound machine and other health equipment had been sourced through the goodwill of the Deputy Governor. Contrary to this, he asserted that the equipment in question had been received from donors in 2015.

Subsequently, following the submission of the petition to the Senate, the county health management announced that the lost ultrasound machine had

been found in a location known as Sakas. Within two days of the announcement, a member of the county health management announced on a public platform that the machine was now in use at the hospital.

No investigations were conducted, nor were any culprits ever apprehended suggesting that the governance, administrative and security mechanisms in place at the hospital were inadequate. He therefore he demanded for an updated inventory of all the hospital equipment.

He also alleged that there had been cases of essential medicines being stolen from county health facilities and ending up in private clinics and in South Sudan.

ii) Appointment of the Deputy Governor as the CECM in-charge of Health

Deputy Governor who was also serving as the CEC of Health was absent from duty. Following the election, he had been to the county only twice, and even then never for more than two to three days at a time. He further alleged that he practices as an Emergency Physician in the US.

He challenged statements by the Governor that the Deputy Governor was in the US on official duty and that he was collecting containers of equipment and medicines worth Kshs.200M. He further alleged that the Governor had attempted to hoodwink the public by alleging that donations received from an NGO known as 'Saving the Mothers' had been sent by the Deputy Governor. Assuming that the Deputy Governor was in the US on official duty, he demanded for the following information:

1. Where the equipment was being stored/warehoused and at whose cost.
2. Whether the Deputy Governor was receiving any public funds for his activities in the US.

iii) Irregular and non-competitive employment of health and other county workers & Harassment, irregular, punitive, malicious transfer and demotion of health staff.

He alleged that the County Public Service Board of West Pokot had collapsed and was working at the direction and pleasure of the County Governor.

Shortly after the election, the board had issued a special press release (*Annex 1*) indicating that 77 county staff had been sent on special leave. Of the 77 county staff who included former ward and sub-county administrators, the following hospital officials were also sent on leave-

1. Mr. John Bitange - Hospital Administrator
2. Mr. Musa Kavesya - Hospital Accountant
3. Mr. Jackson - Chief Accountant

Since alleged that the three officers had continued to draw full salaries and benefits despite being sent on compulsory leave.

He further alleged that the board had hired the new hospital administrator without following due process. He further alleged that the County Health Administrative Officer did not meet the minimum qualifications necessary for the position.

He further alleged that there had been harassment, demotions and malicious transfer of officers seen to be loyal to the previous county regime. Following the elections, all heads of the health department were transferred. For example, the former County Public Health Officer had been maliciously demoted to the ward level to serve under a staff who was on six month contract. He submitted a list of all the officers in the health department who had been maliciously transferred (*Annex 2*).

He further alleged that there had been intimidation and violence by a youth group known as New Red Army (NRA). 247 members of the NRA were employed to the health sector as casual workers in recognition of the role that they had played during the campaign season.

II. Submissions by the County Health Management Team

The Chief Officer of Health responded to the allegations raised in the petition as follows-

- The allegations was malicious, false and aimed at political gain.
- The County Health Budget was KShs. 2.5B. However, the health department was operating within a budget ceiling of KShs. 1.37B. This had affected the department's programs and activities.
- To address the issue of theft of hospital equipment, the county had improved the terms of existing security personnel. In addition, elders from the county intervened through traditional means to ensure that the equipment was returned. The culprit had been apprehended and a court process initiated. A copy of court and police documents were submitted to support this (*Annex 3*). Further, the county has put measures in place to install a CCTV camera in the hospital to reduce incidences of theft.
- The Deputy Governor had successfully sourced for equipment and supplies for the US. The consignments were in Mombasa but were stuck at the port pending clearance of freight charges, and statutory charges to KRA, KEBS etc. The County Health Department had budgeted appropriately to cover for these costs.
- Recruitment of staff had followed due process. Staff from the previous regime had been employed on contract basis. They however demanded to be employed on a permanent and pensionable basis at a cost implication to the county of KShs. 287M.

- On the question of transfers, the CHMT was informed by the needs of the Sub-County Health Management Teams. As such, transfers had been informed by actual need and had followed due process.
- On the question of deteriorating health services, the following performance indicators of Kapenguria Referral Hospital were provided for the first half the year-
 - Total: 69,000+ patients
 - 2300 deliveries of which 404 were through c-section
 - 9 maternal deaths which had been fully audited and accounted for.
 - Had successfully conducted one head surgery.
 - Have also served various patients with cleft lip and cleft palate through a partnership with KNH.

The meeting concluded with an appeal from the Chair of the Senate Health Committee for dialogue and consensus-building in the county.

III. Meeting with the County Governor

The Committee met with the County Governor at his offices. He outlined the county's achievements in the health sector. Further, he defended his decision to appoint and retain the Deputy Governor as his CECM i/c Health. Noting that he was highly qualified, the Governor credited the Deputy Governor with establishing useful networks and connections that had enabled the county to source medical equipment and supplies noting that the county budget would have been too small otherwise to support the county's needs. Further, he assured the Committee that consignments containing various medical equipment and supplies were stuck at the port pending clearance of freight charges, and statutory charges to KRA, KEBS etc. The County Health

Department had budgeted appropriately to cover for these costs and the equipment would be supplied to the county

CHAPTER FOUR: COMMITTEE DETERMINATIONS

In respect of the prayers made in the petition, the Committee made the following determinations:

1. **Prayer One:** *Order a forensic audit and physical count of instruments and equipment in Kapenguria County Referral Hospital.*

Committee Response: By the petitioners own admission, the loss of an UltraSound machine from Kapenguria Referral Hospital was the key concern in relation to this prayer. The machine has since been recovered and is currently in use at the hospital. Following a visit to the Kapenguria Referral Hospital, the Committee in respect of this prayer is satisfied that the hospital management has put in place adequate measures to provide for the safe-keeping of all hospital equipment and instruments under its care.

2. **Prayer Two:** *Commission a special team to investigate the loss of an UltraSound Machine and other equipment in Kapenguria County Referral Hospital.*

Committee Response: The Committee in respect of this prayer notes that the UltraSound machine was recovered and is in use at the hospital. The key suspect to the loss of the machine was apprehended. Court proceedings are ongoing.

3. **Prayer Three:** *Recommend that the Deputy Governor relinquishes the position of CECM i/c of Health as a matter of public interest.*

Committee Response: The Committee in respect of this prayer notes that the Deputy Governor has since relinquished the position of CECM in charge of health.

4. **Prayer Four:** *Establish the cumulative number of days the Deputy Governor has spent in the United States attending to his personal engagements at the expense of serving the people who gave him a mandate.*

Committee Response: The Committee in respect of this prayer hereby instructs the Office of the Auditor-General and the Ethics and Anti-Corruption Committee to establish the actual time spent by the Deputy Governor in the United States on official duty, and on his own personal engagements for the period between September, 2017 and March 2018

5. **Prayer Five:** *Establish whether public funds have been incurred to finance the Deputy Governors notorious piecemeal trips to USA and back and whether he sought clearance from relevant government authorities as required by state officers.*

Committee Response: The Committee in respect of this prayer hereby instructs the Auditor-General to, in accordance with Section 37 of the Public Audit Act, establish whether any public resources were used to finance any personal trips to the US undertaken by the Deputy Governor and if so, to recommend options for recovery of the said public resources.

6. **Prayer Six:** *Recommend appropriate action be initiated against the Deputy Governor for abuse of office and other related violations that the Senate may deem fit and necessary.*

Committee Response: The Committee in respect of this prayer recommends that the Ethics and Anti-Corruption Commission

investigate the Deputy Governor for abuse of office and other related violations in accordance with Section 11(1) of the Ethics and Anti-Corruption Act.

7. **Prayer Seven:** *Recommend that a Human Resource Audit be undertaken on employment of new health and other county staff by West Pokot County Government for the period starting 1st October to date.*

Committee Response: The Committee in respect of this prayer instructs the Ethics and Anti-Corruption Commission and the Commission on Administrative Justice to investigate whether the County Public Service Board of West Pokot County is liable for abuse of office in its conduct of the process of recruitment and/or promotion of staff to various positions in the health sector; and, whether the suspended staff of West Pokot County have continued to enjoy full salaries and benefits for work not done. And further, to recommend appropriate action as may be required.

8. **Prayer Eight:** *Recommend whether it is viable for staff on compulsory leave to continue enjoying salaries and other benefits for work not done.*

Committee Response: As provided for under 'Prayer 7' above.

9. **Prayer Nine:** *Recommend a comprehensive job analysis and job evaluation for West Pokot County, Ministry of Health.*

Committee Response: As provided for under 'Prayer 7' above.

10. **Prayer Ten:** *Recommend appropriate action for any form of malpractice during the employment of health and other staff in West Pokot County, and/or*

Committee Response: As provided for under 'Prayer 7' above.

In light of the above, the Committee resolves that:

1. This report be dispatched to the Office of the Auditor-General for the purposes of establishing the actual time spent by the Deputy Governor in the United States on official duty *vis a vis* his own personal engagements for the period between September, 2017 and March 2018; and, establishing whether any public resources were used to finance any personal trips to the US undertaken by the Deputy Governor and if so, to recommend appropriate action **within 3 months** receipt of this report.
2. This report be dispatched to the Ethics and Anti-Corruption Commission and the Commission on Administrative Justice to investigate the alleged abuse of office and other violations in the management of West Pokot County health staff as contained in this report within a period of **six months**.

ANNEXES

1. Minutes

MINUTES OF THE SIXTEENTH SITTING OF THE STANDING COMMITTEE
ON HEALTH HELD ON TUESDAY, 16TH JULY, 2019, GROUND FLOOR
COMMITTEE ROOM, RED CROSS BUILDING AT 11.30 A.M.

PRESENT

1. Sen. Mbito Michael Malinga, MP - Chairperson
2. Sen. (Dr) Ali Abdullahi Ibrahim, MP - Vice Chairperson
3. Sen. Nderitu John Kinyua, MP
4. Sen. Iman Falhada Dekow, MP
5. Sen. Petronilla Were Lokorio, MP
6. Sen. Okong'o Mogeni, MP
7. Sen. Beth Mugo, EGH, MP

ABSENT WITH APOLOGY

1. Sen. Fred Outa, MP
2. Sen. Masitsa Naomi Shiyonga, MP

IN ATTENDANCE

SENATE

- | | | |
|-------------------------|---|------------------------|
| 1. Mr. Stephen Gikonyo | - | Senior Clerk Assistant |
| 2. Ms. Christine Sagini | - | Research Officer |
| 3. Ms. Lucy Nyasuna | - | Serjeant-At-Arms |

MIN. NO.076/2019

PRAYER

The Sitting of the Committee commenced at 11.45 a.m. followed by a word of prayer by the Chairperson.

MIN. NO.077/2019

ADOPTION OF THE AGENDA

~~The agenda of the meeting was approved after being proposed Sen. Ali and seconded by Sen. Falhada as follows-~~

1. Preliminaries
 - Prayers
 - Approval of the Agenda
2. Confirmation of Previous Meeting Minutes
3. Consideration and Adoption of Draft Reports on-
 - (i) Laikipia Doctor's Strike Report,
 - (ii) Pokot Report on deteriorating Health Care Petition
 - (iii) Kitui, Machakos and Kajiado Committee Visit
4. Any Other Business
5. Adjournment

MIN. NO.078/2019

CONFIRMATION OF PREVIOUS MEETING MINUTES

The Minutes of the meeting of 13th Sitting held on Tuesday, 9th July, 2019 were confirmed as true copy of the meeting proceedings were proposed by Sen. Kinyua and seconded by Sen. Falhada and thereon signed by the Chairperson.

The Minutes of the meeting of 14th Sitting held Wednesday, 10th July, 2019 were confirmed as true copy of the meeting proceedings were proposed by Sen. Falhada and seconded by Sen. Kinyua and thereon signed by the Chairperson.

The Minutes of the meeting of 15th Sitting held on Thursday, 11th July, 2019 were confirmed as true copy of the meeting proceedings were proposed by Sen. Ali and seconded by Sen. Falhada and thereon signed by the Chairperson.

MIN. NO.079/2019

CONSIDERATION AND ADOPTION OF DRAFT REPORTS

(i) Report on Petition Concerning Deteriorating Healthcare Services in West Pokot

The draft report of the secretariat was presented to the Committee for adoption and approval in summary form as follows-

That on 29 March, 2018, a public petition by residents of West Pokot County was tabled before the Senate and committed to the Standing Committee on Health pursuant to Standing Order No. 226(1) of the Senate Standing Orders. The petition was in relation to deteriorating healthcare services in West Pokot County owing to incessant theft of key health care instruments and equipment at Kapenguria Referral Hospital; neglect of duty by the County Executive Member in charge of Health who was also the Deputy Governor of West Pokot County; appointment of unqualified and incompetent persons to various positions; harassment and irregular treatment of health workers perceived to have been loyal to the former county regime; and, payment of full monthly salaries and other benefits to 77 county staff, among them health workers, who had been sent on compulsory leave.

In their prayers, the petitioners requested the Senate to order a forensic audit and physical count of instruments and equipment in Kapenguria County Referral Hospital, commission a special team to investigate the loss of an Ultrasound Machine and other equipment in Kapenguria County Referral Hospital, recommend that the Deputy Governor relinquishes the position of CECM i/c of Health as a matter of public interest, establish the cumulative number of days the Deputy Governor has spent in the United States attending to his personal engagements at the expense of serving the people who gave him a mandate, establish whether public funds have been incurred to finance the Deputy Governors notorious piecemeal trips to USA and back and whether he sought clearance from relevant government authorities as required by state officers, recommend appropriate action be initiated against the Deputy Governor for abuse of office and other related violations that the Senate may deem fit and necessary, recommend that a Human Resource Audit be undertaken on employment of new health and other county staff by West Pokot County Government for the period starting 1st October to date, recommend whether it is viable for staff on compulsory leave to continue enjoying salaries and other ~~benefits for work not done~~, recommend a comprehensive job analysis and job ~~evaluation~~ for West Pokot County, Ministry of Health, recommend appropriate

action for any form of malpractice during the employment of health and other staff in West Pokot County, and/or make any other order/direction that it may deem fit in the circumstances of this matter.

In respect of the prayers made in the petition, the Committee was informed could make the following determinations:

1. *Prayer One: Order a forensic audit and physical count of instruments and equipment in Kapenguria County Referral Hospital.*

Committee Response: By the petitioners own admission, the loss of an Ultrasound machine from Kapenguria Referral Hospital was the key concern in relation to this prayer. The machine has since been recovered and is currently in use at the hospital. Following a visit to the Kapenguria Referral Hospital, the Committee in respect of this prayer is satisfied that the hospital management has put in place adequate measures to provide for the safe-keeping of all hospital equipment and instruments under its care.

2. *Prayer Two: Commission a special team to investigate the loss of an Ultrasound Machine and other equipment in Kapenguria County Referral Hospital.*

Committee Response: The Committee in respect of this prayer notes that the Ultrasound machine was recovered and is in use at the hospital. The key suspect to the loss of the machine was apprehended. Court proceedings are ongoing.

3. *Prayer Three: Recommend that the Deputy Governor relinquishes the position of CECM i/e of Health as a matter of public interest.*

Committee Response: The Committee in respect of this prayer notes that the Deputy Governor has since relinquished the position of CECM in charge of health.

4. *Prayer Four:* Establish the cumulative number of days the Deputy Governor has spent in the United States attending to his personal engagements at the expense of serving the people who gave him a mandate.

Committee Response: The Committee in respect of this prayer hereby instructs the Office of the Auditor-General and the Ethics and Anti-Corruption Committee to establish the actual time spent by the Deputy Governor in the United States on official duty, and on his own personal engagements for the period between September, 2017 and March 2018

5. *Prayer Five:* Establish whether public funds have been incurred to finance the Deputy Governors notorious piecemeal trips to USA and back and whether he sought clearance from relevant government authorities as required by state officers.

Committee Response: The Committee in respect of this prayer hereby instructs the Auditor-General to, in accordance with Section 37 of the Public Audit Act, establish whether any public resources were used to finance any personal trips to the US undertaken by the Deputy Governor and if so, to recommend options for recovery of the said public resources.

6. *Prayer Six:* Recommend appropriate action be initiated against the Deputy Governor for abuse of office and other related violations that the Senate may deem fit and necessary.

Committee Response: The Committee in respect of this prayer recommends that the Ethics and Anti-Corruption Commission investigate the Deputy Governor for abuse of office and other related violations in accordance with Section 11(1) of the Ethics and Anti-Corruption Act.

7. *Prayer Seven:* Recommend that a Human Resource Audit be undertaken on employment of new health and other county staff by West Pokot County Government for the period starting 1st October to date.

Committee Response: The Committee in respect of this prayer instructs the Ethics and Anti-Corruption Commission and the Commission on Administrative Justice to investigate whether the County Public Service Board of West Pokot County is liable for abuse of office in its conduct of the process of recruitment and/or promotion of staff to various positions in the health sector; and, whether the suspended staff of West Pokot County have continued to enjoy full salaries and benefits for work not done. And further, to recommend appropriate action as may be required.

8. *Prayer Eight:* Recommend whether it is viable for staff on compulsory leave to continue enjoying salaries and other benefits for work not done.

Committee Response: As provided for under 'Prayer 7' above.

9. *Prayer Nine:* Recommend a comprehensive job analysis and job evaluation for West Pokot County, Ministry of Health.

Committee Response: As provided for under 'Prayer 7' above.

10. *Prayer Ten:* Recommend appropriate action for any form of malpractice during the employment of health and other staff in West Pokot County, and/or

Committee Response: As provided for under 'Prayer 7' above.

In light of the above, the Committee resolved that:

1. This report be dispatched to the Office of the Auditor-General for the purposes of establishing the actual time spent by the Deputy Governor in the United States on official duty *vis a vis* his own personal engagements for the period

between September, 2017 and March 2018; and, establishing whether any public resources were used to finance any personal trips to the US undertaken by the Deputy Governor and if so, to recommend appropriate action **within 3 months** receipt of this report.

2. This report be dispatched to the Ethics and Anti-Corruption Commission and the Commission on Administrative Justice to investigate the alleged abuse of office and other violations in the management of West Pokot County health staff as contained in this report within a period of **six months**.

Thereon during deliberation the committee approved the report as presented to be tabled in the Senate.

(ii) Report on the Fact-Finding Tour to Kitui, Machakos and Kajiado Counties Health Facilities.

The report was presented as follows-

That the Committee conducted a fact-finding tour of Kitui, Machakos and Kajiado Counties between 27th and 30th April, 2019.

After presentation of the Report the Members were concerned whether the Cuban Doctors were still in place in the hospitals visited and requested a paragraph be inserted on the Cuban doctors.

Further the report recommendation on the KEMSA provision of drugs on the UHC project be redrafted with concrete recommendations. Recommendation on referrals of patients from hospitals from another county with county's Health care cards or under UHC to a hospital in another county should have paragraph of its own.

Thereon the committee approved the report to be tabled in the Senate.

MIN. NO.080/2019

ANY OTHER BUSINESS

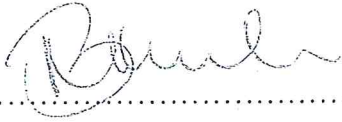
1) The Committee was presented with the printed estimates of the Committee budgets for the FY 2019/2020 as approved by the Liaison Committee as follows-

- a. Domestic Travel budgetary allocation will be Kshs.17,735,294.12
- b. Foreign Travel budgetary allocation will be Kshs.19,164,705.88
- c. Hospitality budget allocation will be Kshs.794,117.65

2) The Committee was informed that Biodiversity and Biosafety Association of Kenya had written to request the Committee for a meeting to brief it on issues related to food security, harmful pesticides and the current GMO ban. The Committee resolved to meet Biba during the next meeting.

MIN. NO.081/2019 ADJOURNMENT

There being no other business the Sitting was adjourned at 1.55 p.m.

SIGNED: 
(CHAIRPERSON)

DATE: 