

## COUNTY GOVERNMENT OF KISUMU



### COUNTY ASSEMBLY OF KISUMU

### **THE HANSARD**

#### *Official Report*

#### THIRD ASSEMBLY – THIRD SESSION

Wednesday 15<sup>th</sup> May, 2024

House met in the Main Chamber at 9:00 a.m.

(The Speaker (Hon. Elisha Jack Oraro) in the Chair)

#### PRAYER

**The Speaker** (Hon. Oraro): Honourable Members, I want to direct that, in line with the provisions of Orders No. 32 (2) of the Kisumu County assembly Standing Orders, that the quorum bell be rung for the first five minutes. No Member is to leave the Chambers apart from the Whip who is to whip Members into the House.

*(Quorum bell rung for five minutes)*

**The Speaker** (Hon. Oraro): Honourable Members, I am not able to see the Whip but I can see the Deputy Speaker and Hon. Emily the Speaker's Panelist seated in the Leader of Majority's seat. One of you can confirm if we have the quorum.

**Hon. Emily** (Nominated Member): Thank you Mr. Speaker. I have the honour of being the Leader of Majority today and I would like to confirm that there is quorum.

**The Speaker** (Hon. Oraro): Mr. Clerk, please take us through the order of the day.

**The Speaker** (Hon. Oraro): Next order!!

**PAPER LAID**

ENCROACHMENT OF THE RIPARIAN AREAS ALONG PAGA BEACH IN SOUTH WEST  
KISUMU WARD

BY

HON. RATIB BOITONE, MCA, NYALENDA “A”

(CHAIRPERSON, STANDING COMMITTEE OF LANDS, HOUSING, PHYSICAL  
PLANNING AND URBAN DEVELOPMENT)

**The Speaker** (Hon. Oraro): Ratib Boitone.

**Hon. Boitone** (MCA, Nyalenda A): Thank you Mr. Speaker. Pursuant to the provision of Standing Order No. 182 (6), I wish to lay today Wednesday 15<sup>th</sup> May, 2024, a report of Lands, Housing, Physical Planning and Urban Development Committee on the Encroachment of the Riparian Areas along Paga Beach in South West Kisumu Ward. Thank you.

*(Hon. Ratib lays the rep[ort before the House for consideration)*

**The Speaker** (Hon. Oraro): Next order!!

**MOTION**

PIC/PAC REPORT ON AUDITOR GENERAL’S REPORT ON THE FINANCIAL  
STATEMENTS FOR AHERO COUNTY HOSPITAL FY ENDED 30<sup>TH</sup> JUNE, 2022

BY

HON. KENNEDY OUKO, MCA, WEST KISIMU

(CHAIRPERSON, PUBLIC INVESTMENTS AND ACCOUNTS COMMITTEE)

**The Speaker** (Hon. Oraro): Hon. Ouko.

**Hon. Ouko** (MCA, West Kisumu): Hon. Speaker, on behalf of the Public Accounts and Investments Committee (PICPAC), and Pursuant to Kisumu County Assembly Standing Orders 188, I wish to present to this House the report of the Committee on the audited financial statements of Ahero County Level IV Hospital, financial year 2021/2022.

The County Assembly exercises oversight over County Government entities/investments and their expenditure Pursuant to Article 185(3) of the Constitution of Kenya 2010, through the Public Accounts and Investments Committee which, in turn, derives its mandate from the County Assembly Standing Orders.

It's instructive that Article 229 (8) of the Constitution of Kenya, 2010, requires the County Assembly, within three months after receiving an audit report, to debate, consider the report, and take appropriate action.

The Committee held 2 sittings during which it received both written and oral evidence from the Accounting Officer on audit queries raised by the Auditor-General on the financial statements of Ahero County Level IV Hospital, FY 2021/2022.

Honorable Speaker, I wish to register my appreciation to fellow Honorable Members of the Committee, the Offices of the Speaker and the Clerk of the Assembly, the Committee Secretariat, and the Office of the Auditor General for the facilitation and technical support that made the production of this report possible.

I also thank the management of Ahero County Level IV Hospital for honoring committee invitations and timely submission of responses.

Special appreciation goes to the Hansard department for ensuring that all our meetings with Accounting Officers are broadcast live.

Honorable Speaker, on behalf of the Public Accounts and Investments Committee, I now wish to table the report on the consideration of the Auditor General's report on the Financial Statements of the Ahero County Level IV Hospital, for the year ended 30, June 2022 and urge this Honorable House to adopt it.

#### REPORT OF THE AUDITOR GENERAL ON THE FINANCIAL STATEMENTS OF AHERO COUNTY LEVEL IV HOSPITAL FOR THE YEAR ENDED 30, JUNE 2022

Hon. Speaker, Dr. Lilian Onwonga, the Medical Superintendent, and the Accounting Officer appeared before the Committee on 5<sup>th</sup> April 2024 at 1400hrs to adduce evidence on the Audited Financial Statements of the Ahero County Level IV Hospital for the year ended 30, June 2022

The following officers represented the Office of the Auditor General in the meeting on 5<sup>th</sup> April 2024 at 1400hrs;

1. Mr. Kennedy Ongoi – Office of the Auditor General
2. Ms. Margaret Mowage – Office of the Auditor General

#### Opinion of the Auditor General; Disclaimer Opinion

Hon. Speaker, the opinion of the Auditor General on the Financial Statements of Ahero County Hospital FY 2021/2022 was a Disclaimer of Opinion. This is the worst opinion that an Auditor can give.

A disclaimer of opinion is an opinion issued by an auditor indicating that the auditor was unable to obtain sufficient evidence to form an opinion on the financial statements being audited. This occurs when the auditor believes that the information available to them is insufficient, unclear, or lacks credibility, making it impossible to provide a clear opinion on the accuracy of the financial statements.

Hon. Speaker, the purpose of an audit is to provide assurance to stakeholders that the financial statements are presented fairly and accurately. When an auditor is unable to provide this assurance, they issue a disclaimer of opinion. This type of opinion is seen as a significant red flag, as it indicates that the financial statements are unreliable and potentially misleading.

#### Basis for Disclaimer of Opinion

Hon. Speaker, the following issues formed the basis of Disclaimer of Opinion;

1. Non-Compliance with the Prescribed Financial Reporting Requirements
2. Lack of Trial Balance
3. Inaccuracies in Revenue
4. Income Received in Enterprise Resource Planning System (ERP)
5. Variances between Financial Statement Amounts and Ledger Amounts
6. Inaccuracies in Cash and Cash Equivalents
7. Inaccuracies in the Statement of Cash Flows
8. Anomalies in the Statement of Comparison of Budget and Actual Amounts
9. Unsupported Balances in the Financial Statements
10. Undisclosed Balances
11. Non-Retention of Own Generated Revenue
12. Irregularities in Procurement of Goods and Services
13. Weaknesses in Procurement
14. Unlawful Direct Procurement of Medical/Clinical Goods and Services
15. Long Outstanding Trade and Other Payables
16. Storage of Expired Pharmaceuticals and Non-Pharmaceuticals
17. Shortage of Essential Pharmaceuticals and Non-Pharmaceuticals
18. Irregularities in the Constitution of the Board of Management

Hon. Speaker, having considered written responses from the management and having held a meeting with the management and the Office of the Auditor General, the Committee makes the following findings;

#### SUMMARY OF OBSERVATIONS

1. That the hospital management failed to adhere to the Public Finance Management Act 2012, Section 164 (1) which states that: *“At the end of each financial year, the*

*accounting officer for a county government entity shall prepare financial statements in respect of the entity in formats to be prescribed by the Accounting Standards Board.”*

2. That there was lack of qualified accountants in the management of Ahero Sub-County Hospital to assist in the proper preparation of the financial statements.
3. That there was no induction for the medical superintendent and the management in regard to their roles in the management of public funds.
4. That the hospital management did not comply with Section 164(1) of the Public Finance Management Act, 2012 which the reporting standards which requires the accounting officer of a county government entity to prepare financial statements of the entity in a form that complies with the relevant accounting standards prescribed and published by the Accounting Standards Board from time to time.
5. That Ahero Sub-County Hospital received an amount of *Kes 11,948,180.95 as transfers from the County Executive and not Kshs.9,568,181* as reported in the books of the County Executive.
6. That by failure to disclose Kshs. 1,620,000 received as claims from Mom Care Foundation, the management failed to adhere to Section 138(8) of the Public Finance Management Act 2012 which stipulates that; *the recipient of a grant or donation from a development partner shall record the amount or value of the grant or donation in its books of account.*
7. The Management, as at the time of Committee deliberations had reconciled the variance of Kshs. 5,688,700 relating to rendering of services- medical income.
8. That there was frequent revenue collection system failure during the financial year under review
9. That the management failed to explain the strategy used to collect money in the event of system failure.
10. That the management failed to support expenses amounting to Kshs, 183,922, Kshs. 48,000, Kshs. 309,000, Kshs. 885,016 relating to employee costs, Board of Management Expenses, motor vehicles, and general expenses respectively, totaling Kshs. 1,425,938 during the time of audit and during the time of Committee deliberations.
11. That at the time of Committee deliberations, the management was able to demonstrate what their actual cash balance was.
12. That the management failed to support the following items during the time of audit and during the time of committee deliberations; Medical Clinical Costs of Kshs. 9, 861,546, Repair of Medical Equipment Kshs. 186,920, Repair of Plant and Machinery at Kshs 21, 112, Grants and Subsidies Kshs. 1,143,668, Receivables from Exchange Transactions Kshs. 5,688,700.
13. The management during the time of committee deliberations presented supporting schedules that could not be verified by the committee and had not been verified by the auditors.

14. That the Management failed to disclose the values of property, plant, and equipment inventory balances in the financial statements.
15. The Management did not carry out Stock takes of inventories contrary to section 162(i) of Public Procurement & Disposal Act 2015 which states that '*An accounting officer of a procuring entity shall ensure that all inventory, store and assets purchased are received, but shall not be used and until taken on charge and as a basis for ensuring that all procured items are properly accounted for and put in proper use and put in proper use as intended by the procuring entity.*'
16. The management did not have an inventory management system during the financial year under review
17. That the management failed to adhere to Section 3(f) of the Kisumu County Health Facilities Improvement Fund Act, 2021 which provides that 'the object and purpose of the Act is to facilitate retention of money collected by public health facilities to support the facilities to deliver relevant services
18. That a letter of *Ref: GN 133 VOL XI/(174), by the Chief Officer, Health, instructed the Hospital to act in contravention of* Section 3(f) of the Kisumu County Health Facilities Improvement Fund Act, 2021
19. That the management did not have a procurement plan during the year under review, despite having procured several items/services including printing and stationery, fuel and lubricants among other items. This was contrary to Regulation 114(2) of the Public Finance Management (County Governments) Regulations, 2015, which states that 'every year a procurement plan shall be prepared by Accounting Officers to form the basis for procurement activities undertaken by government entities in the fiscal year.
20. That the management did not appoint an Inspection and Acceptance Committee to inspect goods procured before being received at the store and pre-inspection and post-inspection reports were not provided for audit. This was contrary to Section 48(3) of the Public Procurement and Asset Disposal Act, 2015
21. That the management procured goods without requisitions from the user departments. This was contrary to Regulation 71 of the Public Procurement and Asset Disposal Regulations, 2020, which provides that (1) pursuant to Section 73 of the Act, the head of the user department shall initiate the procurement process through a requisition as per the approved procurement plan (2) The user department shall submit the requisition under paragraph (1) to the head of the procurement function for processing.
22. That the management spent an amount of Kshs.1,906,095 using the direct procurement method contrary to the provisions of Section 106 of the Public Procurement and Asset Disposal Act, 2015 which requires the invitation of pre-qualified Suppliers to quote for the required services or goods

23. In so doing, the management did not provide justifications that the conditions set out in Section 103 of the Act had been satisfied.
24. Further, there was no evidence that the management had reported to the Authority the direct procurement, within fourteen days after the notification of the award of the contract since the values exceeded five hundred thousand shillings, contrary to the provisions of Regulation 90(1) (b) of the Public Procurement and Asset Disposal Regulations, 2020
25. That two suppliers that had not been prequalified were paid an amount of Kshs.489,875 and Kshs.394,250 for the supply of medical records and patients' food respectively.
26. That the management accrued debts amounting to Kshs.2,257,467 that had been outstanding for more than sixty (60) days.
27. That the management failed to repay the above debts on a first charge basis, contrary to Regulation 41(2) of the Public Finance Management (County Governments) Regulations, 2015, which states that 'debt service payments shall be a first charge on the County Revenue Fund and the Accounting Officer shall ensure this is done to the extent possible that the county government does not default on debt obligations
28. That the management failed to adhere to Guideline 5.5 of the Pharmacy and Poisons Board Guidelines for Good Distribution Practices for Pharmaceuticals, which states that, 'there should be a system to ensure stock rotation, with frequent regular checks that the system is operating correctly. Products beyond their expiry date or shelf life should be removed from usable stock and it must be ensured that they are neither sold nor supplied.
29. That during the FY, there were shortages of essential pharmaceuticals/drugs that are frequently prescribed to patients. Some drugs were out of stock, while others were insufficient and below the designated facility levels.
30. The Board management failed to adhere to Guideline 1.8(1) (b) of the Mwongozo Code of Governance which stipulates that Board members should meet regularly as required and at least quarterly.

#### SUMMARY OF RECOMMENDATIONS

1. That going forward, the Management must adhere to Section 164(1) of the Public Finance Management Act, 2012 which requires the accounting officer of a county government entity to prepare financial statements of the entity in a form that complies with the relevant accounting standards prescribed and published by the Accounting Standards Board from time to time.
2. That the County Executive Committee member, Medical Services, Public Health, and Sanitation immediately deploy a qualified accountant to the hospital to support in the financial management. A report on the deployment be submitted to this Assembly within a period of 60 days upon adoption of this report.

3. That the Department of Medical Services, Public Health, and Sanitation carry out capacity building for all the Medical Superintendents in their roles as the Accounting Officers within a period of 60 days upon adoption of this report and ensure that any newly recruited Medical Superintendents are properly inducted with respect to the same. A report on the induction be forwarded to this Assembly within a period of 60 days upon adoption of this report.
4. That going forward, the Accounting Officer, Department of Medical Services, Public Health and Sanitation must ensure accuracy in the recording of transfers to Level IV health facilities.
5. That going forward, the management must adhere to Section 138(8) of the Public Finance Management Act 2012 which stipulates that; the recipient of a grant or donation from a development partner shall record the amount or value of the grant or donation in its books of account.
6. That going forward, the management must put up proper verifiable mechanisms to ensure that revenues are collected efficiently in case of a system failure.
7. That going forward, the Accounting Officer of the Department of Medical Services Public Health and Sanitation should ensure that the system is agile enough to minimize system downtimes.
8. That Pursuant to Article 226(5) of the Constitution of Kenya, 2010, which states that, *if the holder of a Public Office or a political office, directs or approves the use of Public Funds contrary to the law or instruction, the person is liable for any loss arising from that use and shall make good, the loss, whether the person remains the office holder or not*, the Accounting Officer for Department of Medical Services, Public Health, and Sanitation immediately initiate the recovery of Kshs. 1,425,938 from Dr. Rael Achapa, who was the Accounting Officer of the facility during the year under review. A report on the initiation of the recovery be submitted to this Assembly within a period of 60 days upon adoption of this report.
9. That in the future, the management must adhere to Public Finance Regulations, County Governments Paragraph 90(1) on ensuring that bank accounts reconciliations are completed and submitted to the Office of the Auditor General.
10. That going forward, the management must adhere to Section 3(f) of the Kisumu County Health Facilities Improvement Fund Act, 2021 which provides that 'the object and purpose of the Act is to facilitate retention of money collected by public health facilities to support the facilities to deliver relevant services
11. That going forward, the Accounting Officer, Medical Services, Public Health, and Sanitation must not give instructions that contravenes the law.
12. That going forward, the management must adhere to Regulation 114(2) of the Public Finance Management (County Governments) Regulations, 2015
13. That going forward, the management must adhere to Section 48(3) of the Public Procurement and Asset Disposal Act, 2015

14. That going forward, the management must adhere to Regulation 71 of the Public Procurement and Asset Disposal Regulations, 2020
15. That going forward, the management must adhere to provisions of Section 106 of the Public Procurement and Asset Disposal Act, 2015
16. That going forward, where direct procurement has been used, the management must ensure that the provisions of Section 103 of the Public Procurement and Asset Disposal Act, 2015, is adhered to.
17. That going forward, the management must procure goods and services only from dully prequalified suppliers.
18. That the management settle the debt amounting to Kshs.2,257,467 within a period of 90 days upon adoption of this report and a report on the same be submitted to this Assembly.
19. That going forward, the management must adhere to Regulation 41(2) of the Public Finance Management (County Governments) Regulations, 2015
20. That going forward, the management must adhere to Guideline 5.5 of the Pharmacy and Poisons Board Guidelines for Good Distribution Practices for Pharmaceuticals.
21. That going forward, the management must ensure that essential pharmaceuticals/drugs that are frequently prescribed to patients are well stocked.
22. That going forward, the Board of Management must adhere to Guideline 1.8(1) (b) of the Mwongozo Code of Governance.

## CONCLUSION

Hon. Speaker, I hereby request that this House adopts this report on the examination of the Auditor General's Report on the Financial Statements of Ahero County Level IV Hospital for the FY 2021/2022. May I call upon Hon. Warindu to second?

**The Speaker** (Hon. Oraro): Hon. Warindu.

**Hon. Warindu** (MCA, Miwani Ward): Thank you Mr. Speaker. Let me take this opportunity to appreciate this House Committee and the secretariat for the detailed report they have given the House. If you look at the report from the Sub County Hospitals, this is the first time their Accounts and Financial Statements are being audited and the issues that are flagged out cuts across all the sub county hospitals. Health being one of the pillar department of the County Government of Kisumu, we regret to observe and see how these facilities are operating like private enterprises.

Mr. Speaker, all the 18 issues flagged out in this report are Contravention of the Rules and Regulations that have been put in place. When we raise that in our committee deliberations, we realized that there is only one accountant who was seconded in all these facilities and this being an eye opener we were informed that the County Executive decided to give each and every sub county so that these messes cannot be repeated.

Mr. Speaker, we equally recommended that the County Government should have an Internal Audit Committee for all the Funds in the county so that all these messes can be controlled rather than acting on them when the damage has been made. Lastly, if those in these offices take their work seriously then, we will make a great change in Kisumu County. I urge the Assembly to approve this report and let the recommendations be followed as requested by this House Committee. I second the report. Thank you.

**The Speaker** (Hon. Oraro): Honourable Members, now that the motion on adoption of a report by the PIC/PAC on the Report Auditor General's Report on the Financial Statements for Ahero County Hospital for the FY ended 30<sup>th</sup> June, 2022 has been moved and seconded, I want to propose that this motion is open for debate.

**The Speaker** (Hon. Oraro): Hon. Ratib Boitone.

**Hon. Boitone** (MCA, Nyalenda "A"): Thank you Mr. Speaker. This is a report that must be seriously looked into to. This House Committee has provided this House with a number of observations totaling to 23 (twenty-three). At the same time they have provided us with 25 (twenty-five) substantive recommendations.

Mr. Speaker, this House Committee has done a good job. Mr. Speaker, I wish to raise issues on two recommendations put forward by this House Committee which are of great importance. First, there should be capacity building in the Level IV Hospital. This also brings out the question. Do we have staffs in the Sub County Hospital who are incompetent? This, Mr. Speaker, needs to be taken with a lot of seriousness.

Mr. Speaker, another recommendation that also raises eyebrows is on the Accounting Officer. This House Committee has recommended that the Accounting Officer should be held responsible and amount of Kshs. 1.42 million be recovered. If the county lost this amount of money, then I fully support this report, so that the county can recover this amount.

Mr. Speaker, the Accounting Officer is adversely mentioned in this report. It appears that this Accounting Officer is not qualified and that is why this House Committee is recommending that hospital, through the Public Service Board, recruit a Qualified Accounting Officer. As an oversight institution, what is our question? How did an incompetent Accounting Officer get his way into this facility? This is a matter that needs to be seriously taken into consideration.

Mr. Speaker, I support this report and I implore upon Members to support it so that the Committee on Implementation takes charge and recommendation taken to the letter, thank you Mr. Speaker.

**The Speaker** (Hon Oraro): Yes, Hon Oiko Pete.

**Hon Oiko** (MCA, Kabonyo Kanyagwal): Thank you Mr. Speaker, the report we are handling today is rather similar to the one we handled yesterday. Mr. Speaker, our health facilities had problems previously in the management of their finances and it was felt that they should be given the authority to collect and spend. This is why Facility Improvement Act was enacted some years back to help our health facilities defray some of the debts owed for the smooth running of these facilities. The picture we are getting today of Ahero Sub County Hospital is alarming because the Finance and the departments are now well established. This is why the Office of the Auditor General has given a Disclaimer Opinion.

Mr. Speaker, as was echoed yesterday, we need to take the County Executive to task so that the relevant personnel are deployed to these health facilities to avoid taking things for granted. Where public money has been spent, we need value for it. We should not just assume. Mr. Speaker, despite all the recommendations made on this report, one key matter that we need to address is that in this health facility, an Accountant was posted. Assuming that this is a Qualified Accountant, who was posted to Ahero Sub County Hospital, one wonders why financial records are now in a mess. Where an accountant is and a Trial Balance cannot be prepared, you will definitely ask what this account officer is doing. This is because a trial balance is the financial record prepared on a monthly basis to show the expenditure and income of the institution. And, it becomes accumulated record over the month.

Mr. Speaker, if the accountant cannot prepare these kinds of records, it is a let down to the County Government of Kisumu. The accountant has failed to prepare trail balance and as such, proper records cannot be analyzed. In addition, to the total revenue that is Kshs. 3.3. Money transferred from the Treasury to the facility, has not been indicated. It is Kshs. 11 million while the record shows Kshs. 9 million. You wonder what exactly happened! Is there a Ping-Pong game between the Treasury and this health facility? That is what we must ask ourselves before the records cannot be reconciled. This is money which was transferred at a particular time and a specific amount. When the records do not reconcile, it shows there is game that is being played, Mr. Speaker. Mr. Speaker, these are matters that we must now take the County Executive to task so that we are not seem to be playing about with matters of finance. Our people must get value for money.

Mr. Speaker, there is also the matter of Pending Bill of about Kshs. 2 million. We now need to know, when we were handling County Budget Review and Outlook Paper in this Assembly, we were informed that the Kisumu County Stock of Pending Bills stands at Kshs. 5 billion. The Select Committee of Budget and Appropriations must now come out clearly and inform this House that whether or not the pending bill that they brought to this House included those from these facilities.

Mr. Speaker, if it happens that the Kshs. 5 billion reported for pending bill is for the departments, and other facilities that have become independent on the management of their finances, did not

include their pending bills, then it means that the pending bill for Kisumu County will go up, beyond the reported Kshs. 5 billion. Mr. Speaker, permit me to digress a little bit. If you remember what appeared in yesterday's *Daily Nation* where the Senate wants the County governments to clear all outstanding Pending Bills. Mr. Speaker, if the position of the pending bills is not clear, then, what record are we presenting? And what record are we overlooking?

Mr. Speaker, if there is cash flow problem in an institution, and the institution is not aware of the money they are receiving from other bodies, what they are collecting and even figure out their revenue, then one may comment that there is a lot of window dressing in the financial records of this institution. We need to take this matter seriously so that we help the County Executive in its work. It is this Assembly that should pin point where these mistakes are, and when we do that, we are not fighting anyone. Our desire is to have finances managed prudently; we want our people to get value for money; we want our financial records to be appraised positively, and then we shall have done a good work.

Mr. Speaker, this financial record and red flags raised by the Office of the Auditor General should not be taken for granted. We need to expose this so that other departments should follow suit. And by that, I ask this House Committee that we have only two ways once such a report has come before us. A lot of sweeping recommendations are being made. These sweeping recommendations, where do we want to reach with them? If the office of the Auditor General has raised this kind of report, we have only two options. To forward it to the office of the EACC for the financial messes that have been flagged out and to the DCI if they are managerial problems. Those are the two aspects we should look into but not giving a lot of sweeping recommendation which after passing this report, we shall end with it nowhere.

So, let us be specific and go to the matters of Audit in the Audit Act, 2015. What does it guide us on? Let us not give a lot of our own recommendations and go by what is recommended by the Constitution of Kenya, and we forward this report to those two investigative offices. We shall be helping this County, our people and be relevant in our work. I so submit Mr. Speaker.

**The Speaker** (Hon. Oraro): Hon. Benny, make it a practice to either support a motion or reject.

**Hon. Oiko** (MCA, Kabonyo-Kanyagwal Ward): I oblige Mr. Speaker, and support that action be taken.

**The Speaker** (Hon. Oraro): Hon. Seth Okumu.

**Hon. Okumu** (MCA, East Seme): Thank you so much Mr. Speaker, I rise to support the adoption of the report by the Select Committee of PIC/PAC. I want to start from where my brother, Hon. Benny Oiko finished, on the recommendations. I want to challenge my brother that what does the offices of EACC and DCI got to do with lack of an Accounting officer, Procurement Officer or staff in a facility? So, we cannot limit our recommendations to DCI and

EACC because this facility has a lot of stakeholders, from the Community, to the County Government, the County Assembly, and to everyone that is involved. Like I said yesterday, when we were discussing Kombewa Hospital that an Audit Report informs you what has gone wrong, then you can determine how to make it right. On that note Mr. Speaker, I want to agree with the recommendations that this House Committee made, with regards to Ahero Sub-County hospital.

Mr. Speaker, we cannot make our hospitals procuring entities without assigning them Accounting officers, and Procurement officers. A Medical Superintendent is not trained to be Procurement Officers especially when they are doctors, dentists, or pharmacists, but they are given the responsibility of becoming Accounting Officers. For them to do their role as Accounting Officers, the County Government must facilitate them so that we get the best services from these facilities. Hon. Speaker, in our interaction with some of these facilities, and out of this report, I want to guide the officers out there. There is a tendency by the Department, using some of these facilities because they are procuring entities, to make procurement for goods and services that they do not know where they are going to be spent. When it comes to auditing, it is these facilities that are audited and put to answer questions on procurements that were done for goods that they did not see, or services that were not offered in that particular facility. I want to advice from this report, especially for Ahero and any other Sub-County Hospital or procuring entity within our County Government. That any procurement done, should be for services or goods that are seen and utilized.

Hon. Speaker, this report and my interactions with the officers of this Department, made me note tendencies that when the Auditor General has done their audit, I do not know if it is deliberate or by chance that there is usually change of staff. You find that the Medical Officer who was there has been moved, the Administrator has been moved, and now the people who are being held or invited to these meetings, are either 2 or 3 months old in a particular facility. However, because the office operates in perpetuity, they are meant to answer questions on things that happened when they were not there. I also want to plead with the Department to let the officers who are responsible for some of these anomalies to be the ones who are invited here. I believe that this should be a practice by the various House Committees through the Chairperson. Even though the office operates in perpetuity, the audit reports have management and management committees that were present when the audit is being done. Let it be a practice that these are the people that we invite and not the office because they are individuals with names.

**Hon. Oiko** (MCA, Kabonyo-Kanyagwal Ward): A Point of Order Mr. Speaker.

**The Speaker** (Hon. Oraro): What is your Point of Order Hon. Benny Pete.

**Hon. Oiko** (MCA, Kabonyo-Kanyagwal Ward): *(On a Point of Order)* Mr. Speaker, I arise citing the provisions of Standing Orders No. 89 on Statement of Facts. Hon. Set Okumu has come up to challenge my contribution and I want to refer him to Article 226(5) of the Constitution of Kenya, 2010, provides that;

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*If the holder of a public office, including a political office, directs or approves the use of public funds contrary to law or instructions, the person is liable for any loss arising from that use and shall make good the loss, whether the person remains the holder of the office or not.*

Mr. Speaker, therefore, it is the honour of this House Committee to order the officers who were in the office to appear before them as per that Article.

**Hon. Okumu** (MCA, East Seme Ward): Thank you Hon. Speaker, it is my belief that the Hon. Member is still confused. The audit report does not limit itself to use of public resources. If you look at that audit report, it even mentions the number of staff vis-à-vis the required staff in each and every facility. If a facility is supposed to have 3 (three) Medical Officers but it is only has one, that is the challenge I was highlighting. What does that have to do with the EACC and the DCI? What does that got to do with the Medical Superintendent? I am challenging you Hon. Member so that you understand.

Mr. Speaker, the recommendations that this House Committee has made, has covered everything including loss of public resources. Honourable Members, I will continue and explain further that on the change of staff, I was saying that after audit, there is a practice or a tendency of change of staff in most of these facilities. This makes the people who, and in Hon. Oiko's words, do not make good use of public resources not solely responsible. They could have been moved from Kombewa Hospital but are asked questions about Ahero County Hospital. In a similar case, they have been moved to Prosperity House and just hanging around, and then you are told to invite this person who is only 3 (three) months old because the office is working in perpetuity.

Hon. Speaker, I would request that moving forward, these House Committees should work on inviting the officers who were present when the audit report was being done. Otherwise, I rise to support the adoption of this report, so that we can make good use of all public resources in our County and Sub-County hospitals, thank you Mr. Speaker.

**The Speaker** (Hon. Oraro): Hon. Alice Wajewa.

**Hon. Wajewa** (Nominated Member): Thank you Mr. Speaker; I rise to support the adoption of the report by PIC/PAC Committee. First, I want to applaud this House Committee and the secretariat for the work well done. It is quite unfortunate that these kinds of issues that are happening in our health facilities. It is really sad, and an eye opener to the County Executive and the County Assembly of Kisumu. I really want to support all the recommendations and it is my prayer that the Select Committee on Implementation follows up to see that all these recommendations are implemented. All the management teams that have been mentioned in the report should be held responsible for the misappropriations of funds.

Mr. Speaker, it is sad when it is mentioned that pharmaceuticals and non-pharmaceutical commodities in the health facilities have expired are still stored. I am very sure that they are

used. Mr. Speaker, as you are aware that if the medicines are not properly used, they are poison to our people. As you are aware that these kinds of issues ...

*(Hon. Okumu rises on his feet)*

**Hon. Okumu** (MCA, East Seme Ward): On a point of order Hon. Speaker!

**The Speaker** (Hon. Oraro): What is your point of order Hon. Seth Okumu?

**Hon. Okumu** (MCA, East Seme Ward): Mr. Speaker, under Statement of Facts, the Hon. Member has just mentioned that she is sure that the expired drugs are being used. Hon. Speaker, if the Member is very sure, then, the Member should provide fact to that statement so that action can be taken. But, if the Member is not, then she should withdraw and apologize because that sends wrong signals to the people that we are treating them with expired drugs. Thank you, Hon. Speaker.

**The Speaker** (Hon. Oraro): Hon. Alice.

**Hon. Wajewa** (Nominated Member): Mr. Speaker, it is mentioned in the report that expired drugs are stored together with the drugs which are being used. If they have expired and they are stored together with the ones which are still in use and with all these confusions in these health facilities. We are sure that they are used. Why didn't the facility get rid of them by destroying them? Why store them together with the ones which are in good condition? That is why for me I cannot withdraw because I am sure that their intention of storing the expired drugs or non-pharms means that they have bad intention. So, I really want to support the recommendation that all the management should do their work with efficiency but, they are not doing their work as required and expected of them. Thank you, Mr. Speaker.

**Hon. Okumu** (MCA, East Seme): On a point of order Hon. Speaker!

**The Speaker** (Hon. Oraro): What is your point of order Hon. Seth?

**Hon. Okumu** (MCA, East Seme Ward): Mr. Speaker, I am rising on a Statement of Facts. Storage and use are two different things. I mean that there is a process of destroying expired drugs and I do not believe that by having them in one store means that they are going to be used. If in case you are sending signals that by storing drugs that are expired in the same store with the ones that are being used, then you are sure that they are being used on people. Hon. Speaker, that statement is very dangerous. If the Member does not have proof, then it is my opinion that it is just right that the Member withdraws that statement.

**The Speaker** (Hon. Oraro): Hon. Alice.

**Hon. Wajewa** (Nominated Member): Hon. Speaker, I believe that the Honourable Member should answer one question before asking me to withdraw. Why are they storing the expired

drugs together with the ones which are supposed to be used? What is their intention? That is because the drugs which have expired are supposed to be put aside awaiting disposal. Why are they mixed? It is really an offence Mr. Speaker to mix the expired and the drugs which have not been expired it is an offence, and in fact this thing should go to the Ethics and Anti-corruption Commission to investigate further. Thank you so much Mr. Speaker.

**The Speaker** (Hon. Oraro): Hon. Alice, I believe that the concern of Hon. Seth is the surety of usage of expired drugs not their storage. You mentioned that you are sure that the fact that the expired drugs are stored together with the good ones; you are sure that they are used. So, the question is on the surety on usage not the storage.

**Hon. Wajewa** (Nominated Member): Hon. Speaker, I would ask the Honourable Member to answer my question. Why is the facility storing expired drugs and none-pharmaceutical commodities together with the ones which are supposed to be used?...

**The Speaker** (Hon. Oraro): Hon. Alice, the Member stood on a Point of Order which was very clear. It was on the Statement of Facts based on the surety of usage of expired drugs not on the storage. I believe that the Member never stood on a point of order to question on the storage of the two. I mean the mover of the motion; maybe it could be due to lack of storage room for different drugs. This now brings a question of is there enough facility to store different items. But, the point of order is; you said you were sure and it is sending a wrong signal to the public. Hon. Alice.

**Hon. Wajewa** (Nominated): Mr. Speaker, I cannot withdraw because, even if you go to the pharmacy now and you get expired drugs stored there, it is an offense...

**The Speaker** (Hon. Oraro): Hon. Alice, I will help you.

**Hon. Wajewa** (Nominated Member): Yes.

**The Speaker** (Hon. Oraro): If you are not able to withdraw, then I can give you even up to the next sitting to provide evidence. I am saying that you have indicated that you are not able to withdraw. So, in line with the provisions of our Standing Order, I believe that it is just fair that we give you up to probably the next sitting to substantiate that fact that expired drugs are being used in the hospitals.

**Hon. Wajewa** (Nominated Member): Thank you so much, I oblige.

**The Speaker** (Hon. Oraro): Hon. Emily.

**Hon. Oginga** (Nominated Member): Thank you Mr. Speaker, I wanted to stand on a point of information. I wanted to inform my sister Hon. Alice. But, since you have made a ruling, I do not know whether I should go ahead.

**The Speaker** (Hon. Oraro): Hon. Alice, do you want to be informed?

**Hon. Wajewa** (Nominated Member): Mr. Speaker, I do not want to be informed.

*(Laughter)*

**Hon. Oginga** (Nominated Member): Okay, I would like to inform the House Mr. Speaker.

**The Speaker** (Hon. Oraro): Please proceed.

**Hon. Oginga** (Nominated Member): Thank you Mr. Speaker. I would like to inform the House on clarity on the stored but expired drugs. Being The Vice Chairperson of the Standing Committee of Health, we have done several site visits to these facilities. Whenever we go to these facilities, we visit the pharmacies. You find out that at times they could be storing expired drugs because of the accountability reasons. Though the expired drugs have to be kept aside until the Auditors come and then they be disposed. So, I believe that, this is why Hon. Alice was actually mentioning that they saw expired drugs. But, on their usage, that one she needs to clarify, thank you.

**The Speaker** (Hon. Oraro): Honourable Members, I believe that I have already directed that; Hon. Alice, there is no question of storage. But, we have agreed that in the next sitting, you substantiate that those drugs are being used.

**The Speaker** (Hon. Oraro): Hon. Henrietta Bodo.

**Hon. Bodo** (Nominated Member): Thank you, Mr. Speaker. Have you made a ruling so that we do not continue debating about this? You have not. Thank you very much. Mr. Speaker, I just want to say a word or two about what my colleague has just said. I think what...

**The Speaker** (Hon. Oraro): Hon. Bodo, are you on a point of order or you want to debate. I have already made my ruling on that matter

**Hon. Bodo** (Nominated): I want...

**The Speaker** (Hon. Oraro): Hon. Bodo, I have already made a determination on that point of order. So, if you want to proceed a determination on that point of order. So, if you want to debate, proceed.

**Hon. Bodo** (Nominated): *(Laughs)* Mr. Speaker, I do not clearly understand you.

*(Laughter)*

**Hon. Bodo** (Nominated): Mr. Speaker I do not know whether to debate but, I want to say a word or two. I do not know whether that is a debate or...

*(Laughs)*

**Hon. Okumu** (MCA, East Seme Ward): On a point of order!

*(Hon. Okumu is consulting loudly)*

**The Speaker** (Hon. Oraro): Hon. Henrietta, I believe and we know that when a motion is moved, seconded and a question is proposed. The next thing is to debate. So, we are still debating until we exhaust our time. In the Order Paper, there is an attachment on Limitation of Debates. So, I would only stop the Members if they go beyond the provided time. I therefore believe that we are within the provided time. So, any Member can debate as long as you are not doing that for the second time. But, you are also allowed to rise on a Point of Order and even create amendments to the motion at hand. You can rely on the Standing Orders and do anything that you want provided it is in line with the provisions of the Standing Orders, the Constitution of Kenya and any other statutes that guide our debate in the House. So, if you want to touch on what Hon. Alice said, I believe that I have given direction on the way forward, but if you want to debate, you can proceed Hon. Bodo.

**Hon. Henrietta** (Nominated Member): Thank you Mr. Speaker. I thought of taking what Hon. Wajewa has said to next week, it is my belief that is too long. Whatever is there, I trust in just the wording. She used the word “she's sure that the drugs are being used” I think that we can just change that to.

**The Speaker** (Hon. Oraro): Hon. Henrietta.

**Hon. Okumu** (MCA, East Seme): Point of order Mr. Speaker!

**The Speaker** (Hon. Oraro): Hon. Henrietta, I rule you Out of Order!! Once the Speaker has made a determination on a matter, you don't again come back with a debate on it. Unless you bring it up officially. The Standing Order provides on how you can challenge such rulings or determinations. So, please, don't go back to that matter, but you can debate on the motion of the PICPAC committee.

**Hon. Henrietta** (Nominated MCA): Mr. Speaker, I don't want to debate on this matter, I just wanted to do a correction, but now that you have made a determination, I don't have anything else to add on what you have said. Thank you.

**The Speaker** (Hon. Oraro): Thank you. I believe that Hon. Bodo wanted to be heard on the Hansard, you have been heard.

**The Speaker** (Hon. Oraro): Hon. Dede.

**Hon. Dede** (MCA, Kisumu North): Thank you Mr. Speaker for according me the opportunity to air sentiments concerning the motion. First, I want to applaud this House Committee for having brought good observations and recommendations concerning our facilities.

Mr. Speaker, to begin with, under the observations, it's stipulated that there is an amount of Kshs 1.96 which was paid for Direct Procurement which should not be the case in our facilities. It is contrary to the Regulations that before the procurement is done, there should be a procedure to be followed whereby goods before supply, we follow the correct procedure so that we do the procurement. So, that implies that Kshs 1.96 was not correctly used.

Mr. Speaker, as the mover was moving the motion, there was a debt to be settled of Kshs 2, 257,467.00, that was a recommendation made by this House Committee but the Kshs 2, 257,467 should have been breakdown to show that while it is being settled, we know what departments it caters for.

Mr. Speaker, the recommendations provided by this House Committee, these facilities that are being audited for the first time, we get the wrong impressions emanating from our facilities. Mr. Speaker, these facilities being audited for the first time shows that the procurement procedure, and those employed in the facility, should be aware of the procedures to be adhered to even though it is the first time that they are being audited

Mr. Speaker, there has been problems in the facilities during the auditing period you will realize that in those facilities being audited you will note that transferred were effected and this included the Ward Administrators who are knowledgeable of what transpires in these facilities . So we don't have adequate information for the facility and that should be considered, that at that particular time of the auditing, let those who were in-charge of these facilities be called upon to respond to issues flagged out by the Auditor.

*The Speaker vacates the chair)*

*(The Deputy Speaker chairs)*

Finally, this concerns the pharmaceutical commodities. Mr. Speaker, you note that even though these pharmaceutical commodities which are expired are being found at the facilities, they can't be disposed at that particular moment and these expired pharmaceutical commodities should be kept for the auditing and the accountability. With the few observation and recommendations, I support the motion.

**The Deputy Speaker** (Hon. Okombo, MCA, Manyatta "B"): Hon. Bill.

**Hon. Bill** (MCA, Kobura): Thank you Madam Speaker for giving me this opportunity to air my views on the report. First, I want to thank this House Committee for the good report that gives us a clearer picture of what happened in that facility in Ahero.

Madam Speaker, looking at the report, you realize that what is ailing Ahero is a management issue and this is documented in the report, that when Ahero was being made an entity, even the management were saying that they did not know that they were made an entity and that is why they were not ready to do the report and it is in the report.

Madam Speaker, whenever public funds are involved, be it in the county government or in any organization or even in the national government, at least we need to have a proper system because these are monies that come from our Kenyan citizens and they should be getting value from their money. So, before any institution is made an entity, we should have had a qualified accounting officer and I believe that, this is something that we should question the county government because we can't have our funds managed by people who really don't understand what is happening because for one, serious financial statement or any financial document, we need to have that matching principle that is from the finance principles, at least the expenses and the revenues, there should be some reconciliation but, looking at what we are being furnished with in the report, That is not there.

Madam Speaker, any report that we are being furnished with should be objective, at least the report should be very accurate and also should have been supported by evidence, which clearly is not that case because if you look at the report, it is reported that the financial statements were given without notes. So, having a financial statement and no notes to support this implies that there's something that is going on that we may not understand, because the report is not given fully.

Madam Speaker, another issue is the full disclosure that is a principle of accounting is not given. This House Committee should have provided in their recommendation that in the coming reports they should be providing this House with full disclosure so that in our oversight role, we can know and we can give good recommendations because we have a full copy of what really happened. So it is truly a management issue because, one, we don't have a qualified accounting officer in that institution. Secondly, we don't have a good procurement team so that everything is done in accordance with the procurement regulations with openness, integrity, transparency, and accountability.

Madam Speaker, on expired pharmaceutical commodities, it is unfortunate that we can still have pharmaceutical commodities that are expired. It is my belief, Madam Speaker, in our county government, if we have a system whereby pharmaceutical commodities come from one central point whenever they are needed, so that the first pharmaceutical commodities that are manufactured early enough should go fast, so that we don't have wastage because now these public funds that is going to these commodities after the drugs have expired, they're not going to be used. So, if you have a good system, a central procurement point where pharmaceutical commodities are distributed from, maybe on a weekly or even after some period, we will do away with drugs that were manufactured early enough which should go fast by applying the

FIFO system so that we do not have wastage, because now these are public fund that are going to waste after their expiry.

Madam Speaker, if we can establish a good system with a central procurement and distribution point for distribution of these pharmaceutical commodities, whether on a weekly or at regular intervals, we can ensure that older drugs are used first, preventing wastage. As Members, our primary role is to minimize the wastage of public funds. Implementing such a system would significantly help us achieve this goal. With that, Madam Speaker, I fully support this proposal.

**The Deputy Speaker** (Hon. Okombo, MCA, Manyatta “B”): Honourable Members, if we do not have any other Member making their submissions, then can we have someone call the Mover to reply.

**Hon. Ajwang** (Nominated MCA): Thank you Madam Speaker, going by the mood of this House, I call upon the Mover to reply.

**The Deputy Speaker** (Hon. Okombo, MCA, Manyatta “B”): Hon. Kennedy Ouko.

**Hon. Ouko** (MCA, West Kisumu): Thank you Madam Speaker, I would like to commend the Members of the County Assembly for responding positively to the issues outlined in the Auditor’s Statement regarding Ahero Level 4 Hospital. I would like to highlight some key issues raised on the floor.

Madam Speaker, in our report, we included observations made independently by Members of the PICPAC Committee during the submissions of the Accounting Officer. One of these observations, specifically number 28, noted that the Management failed to Adhere to Guideline 5.5 of the Pharmacy and Poisons Board Guidelines for good Distribution Practice for Pharmaceuticals. This guideline mandates a system to ensure stock rotation with regular checks to confirm the system is functioning correctly. It also requires that products beyond their expiry date or in unfit condition be removed from usable stock to ensure they are neither sold nor supplied.

Madam Speaker, this document will become legally binding once it is adopted. We did not imply that these expired drugs were used; rather, we recommended adherence to the Pharmacy Board’s Guidelines. Our recommendation is clear: going forward, the management must comply with Guideline 5.5 of the Pharmacy and Poisons Board Guidelines for Good Distribution Practices for Pharmaceuticals commodities....

**The Deputy Speaker** (Hon. Okombo, MCA, Manyatta “B”): Hon. Ouko.

**Hon. Ouko** (MCA, West Kisumu Ward): Yes Madam Speaker...

**The Deputy Speaker** (Hon. Okombo, MCA, Manyatta “B”): It is my belief that Hon. Wajewa made an individual observation.

**Hon. Ouko** (MCA, West Kisumu Ward): Yes.

**The Deputy Speaker** (Hon. Okombo, MCA, Manyatta “B”): And the Speaker had already made a determination on that. So I believe you stand guided.

**Hon. Ouko** (MCA, West Kisumu Ward): Yes.

**The Deputy Speaker** (Hon. Okombo, MCA, Manyatta “B”): Proceed!

**Hon. Ouko** (MCA, West Kisumu): Madam Speaker, I appreciate the guidance provided, especially considering that we are live, and it's important to clarify that we are not providing incorrect information to the Members. Thank you for the direction.

Honorable Members, we all aware that health is a basic necessity, alongside food, clothing, and other essentials. Without a robust health system, we are failing in our mandate. Many of the problems in our Sub-County hospitals can only be resolved by this House.

Madam Speaker, during our discussions with the Medical Superintendents, who serve as the accounting officers, it became clear that they lack the capacity to manage these facilities, particularly in financial matters. As a result, we recommended that entities like Ahero should have a dedicated accounting officer seconded to them. It's as if we are dealing with individuals who are given complex tasks without the necessary skills, which is quite unfortunate. Although the law clearly outlines the role of accounting officers, we sometimes sympathize with these young men leading our hospitals. However, the law must be applied uniformly.

Madam Speaker, a Trial Balance is a crucial report because it informs the financial statement of a facility. Without it, anyone who is presenting a financial statement risks legal consequences. Our recommendations are strictly based on the law, specifically the Constitution of Kenya and the Public Finance Management (PFM) Act of 2012, Regulation 15, which clearly outlines the handling of county government issues.

Madam Speaker, several departments, such as Finance and Health, need to address the issues we've identified. They should use our findings as a basis for their meetings and improvements. Additionally, we have an excellent leader heading the Implementation Committee, who is doing an outstanding job. It is the responsibility of this House to provide oversight on the County Executive. It can be disappointing when only a few Members contribute to these matters, despite it being our duty. While there is no law mandating participation, remember that we are here to represent the interests of the people. When we have reports like these, we should not fear addressing sensitive issues, as our actions are grounded in the law. You are protected by the law.

Thank you, Madam Speaker, who also serves as the Chairperson of the Liaison Committee. We greatly appreciate your support. This report was made possible by the funds appropriated to our Committee, including additional funds from the Supplementary Budget. We must recognize this

support and thank all Members. We look forward to your continued support. Thank you very much; I beg to reply.

**The Deputy Speaker** (Hon. Okombo, MCA, Manyatta “B”): Thank you Hon. Kennedy Ouko. Honourable Members, a Report of Financial Statement of Ahero County Hospital for the Financial Year ended 30<sup>th</sup> June, 2022, has been moved, seconded and debated upon, I therefore want to put a question on the adoption of the same?

*(Question put and agreed to)*

**The Deputy Speaker** (Hon. Okombo, MCA, Manyatta “B”): Honourable Members, the Report of Financial Statement of Ahero County Hospital for the Financial Year ended 30<sup>th</sup> June, 2022 is hereby adopted today Wednesday, 15<sup>th</sup> may, 2024 at 1043 hours. I direct that the report together with the Hansard report be prepared and forwarded to the relevant departments for action.

**The Deputy Speaker** (Hon. Okombo, MCA, Manyatta “B”): Next Order!!

## ADJOURNMENT

**The Deputy Speaker** (Hon. Okombo): There being no any other business to transact, the House stands adjourned to 15<sup>th</sup> May, 2024 at 2.30 p.m.

*(House rose at 10.44 a.m.)*

*Addendum*

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