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REPUBLIC OF KENYA

PARLIAMENT OF KENYA
THIRTEENTH PARLIAMENT – THIRD SESSION – 2024

THE DIRECTORATE OF DEPARTMENTAL COMMITTEES OF THE NATIONAL ASSEMBLY
AND
THE DIRECTORATE OF SOCIAL ECONOMIC COMMITTEES OF THE SENATE

THE NATIONAL ASSEMBLY DEPARTMENTAL COMMITTEE ON HEALTH
AND
THE SENATE STANDING COMMITTEE ON HEALTH

REPORT ON THE APPROVAL OF DR. PATRICK OMWANDA AMOTH,
EBS, NOMINEE FOR APPOINTMENT AS THE DIRECTOR-GENERAL
FOR HEALTH

THE NATIONAL ASSEMBLY PAPERS LAID	
DATE: 31 JUL 2024	DAY: WEDNESDAY
TABLED BY: CLERK	CO-CHAIRPERSON JOINT COMMITTEE ON APPROVAL OF THE DIRECTOR GENERAL, HEALTH
TRACY CHEBET	

CLERKS CHAMBERS
DIRECTORATE OF
DEPARTMENTAL COMMITTEES
PARLIAMENT BUILDINGS
NAIROBI
JULY 2024

CLERKS CHAMBERS
DIRECTORATE OF SOCIAL
ECONOMIC COMMITTEES
PARLIAMENT BUILDINGS
NAIROBI
JULY 2024

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LIST OF ABBREVIATIONS AND ACRONYMS

DCI	-	Directorate of Criminal Investigations
EACC	-	Ethics and Anti-Corruption Commission
DG	-	Director-General
DMS	-	Director of Medical Services
CS	-	Cabinet Secretary
CRB	-	Credit Reference Bureau
HELB	-	Higher Education Loans Board
HPV	-	Human Papillomavirus
KRA	-	Kenya Revenue Authority
KMPDC	-	Kenya Medical Practitioners and Dentists Council
MES	-	Managed Equipment Services
MoH	-	Ministry of Health
ODPP	-	Office of the Director of Public Prosecutions
ORPP	-	Office of the Registrar of Political Parties
PSC	-	Public Service Commission
PWD	-	Persons with Disability
WHO	-	World Health Organization

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FOREWORD BY THE CHAIRPERSON

This report contains proceedings of the joint sitting of the Departmental Committee on Health of the National Assembly and the Standing Committee on Health of the Senate during the approval hearing of Dr. Patrick Omwanda Amoth, EBS, nominee for appointment to the position of Director-General for Health.

Pursuant to the provisions of section 16(2) of the Health Act, (Cap. 241), the Cabinet Secretary for Health submitted the name of Dr. Patrick Omwanda Amoth, EBS as the successful candidate for appointment to the position of Director General for Health. Section 16(2) of the Health Act (Cap 241) provides that the Director General for Health shall be recruited by the Public Service Commission through a competitive process, vetted by Parliament, and appointed by the Cabinet Secretary.

The Hon Speaker of the National Assembly vide a communication made on 26th June, 2024 and the Hon. Speaker of the Senate vide a communication made on 2nd July, 2024 conveyed to the National Assembly and the Senate respectively the Message from the Cabinet Secretary, Ministry of Health. Consequently, the Speakers of the Houses of Parliament referred the matter to the National Assembly Departmental Committee on Health and the Senate Standing Committee on Health, respectively, for the joint consideration of the Committees. (*Annex 3 (a) and (b)*) (*Communication from the Speakers of the Houses of Parliament*).

In accordance with section 6 (9) of the Public Appointments (Parliamentary Approval) Act, (Cap 7F), the Clerk of the National Assembly and the Clerk of the Senate invited interested members of the public to submit any representations, by written statements on oath (Affidavits), with supporting evidence, on the suitability of the nominee for appointment to the position of Director-General for Health. The invitations were made vide advertisements which appeared in the *Daily Nation* and the *Standard* Newspapers on Friday, 5th July, 2024.

This notification was followed up with letters to the nominee inviting him to attend the vetting and requesting him to submit the completed Questionnaire set out in the Schedule to the Public Appointments (Parliamentary Approval) Act (Cap 241) together with clearance certificates from the Office of the Director of Public Prosecutions (ODPP) Ethics and Anti-Corruption Commission (EACC), Kenya Revenue Authority (KRA), Higher Education Loans Board (HELB), Directorate of Criminal Investigations (DCI), Office of the Registrar of Political Parties (ORPP) and any credit reference bureau.

Further the Clerks of the Houses of Parliament wrote letters to ODPP, EACC, KRA, HELB and DCI seeking reference and background checks relating to the suitability of the nominee to ascertain whether there were any corruption or criminal proceedings pending against the nominee.

Pursuant to the provisions of Article 118 of the Constitution, section 6 (3) of the Public Appointment (Parliamentary Approval) Act, standing order 45 (3) of the National Assembly Standing Orders and standing order 77 (2) of the Senate Standing Orders, the Clerk of the National Assembly and the Clerk of the Senate by way of advertisement in the print media, notified the general public of the intention of the Committees to conduct the approval hearing.

The Committees conducted the approval hearing on Thursday, 25th July 2024. In conducting the approval hearing, the Committees were guided by the provisions of the Constitution, the Public Appointment (Parliamentary Approval) Act, (Cap. 7F), the Leadership and Integrity Act, (Cap. 185C), the Public Officer Ethics Act (Cap 185B), the Public Service Commission Act, (Cap. 185), the Health Act, (Cap. 241), the National Assembly Standing Orders and Senate Standing Orders.

The Committees made observations, contained in this Report, based on Constitutional and statutory requirements memoranda received as well as the submissions of the stakeholders and the nominee. The Committees' recommendation is therefore based on the evidence and information from the proceedings during the approval hearing.

The Committees recommend that having considered the suitability, capacity, and integrity of the nominee, and pursuant to the Health Act, (Cap.241) and Section 8 (2) of the Public Appointments (Parliamentary Approval) Act (Cap. 7F), **Parliament approves** the nomination of Dr. Patrick Omwanda Amoth, EBS for appointment to the position of Director-General for Health.

Acknowledgements

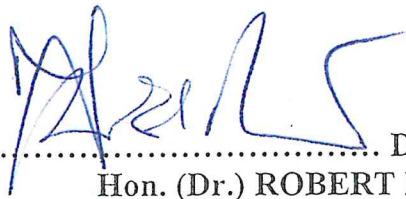
The Committees wish to thank the Office of the Speaker of the National Assembly, the Office of the Speaker of the Senate, the Clerks of both Houses and their staff for the logistical support accorded to them during the approval hearing. In addition, the Committees thanks the nominee for his cooperation during the approval hearing.

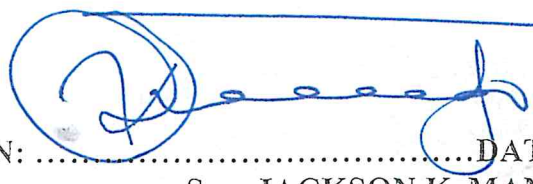
The Committees are also grateful to the members of the public who submitted their memoranda and the media for their live coverage of the proceedings, thus enhancing accountability and transparency of the approval process.

Further, the Committees appreciate the Director of Public Prosecutions (DPP), the Chief Executive Officer of the Ethics and Anti-Corruption Commission (EACC), the Commissioner General, Kenya Revenue Authority (KRA), the Chief Executive Officer Higher Education Loans Board (HELB), the Director, Directorate of Criminal Investigations (DCI) and the Registrar of Political Parties for providing references and background checks relating to the suitability of the nominee.

Finally, we acknowledge and appreciate the Members of the National Assembly Departmental Committee on Health and the Senate Standing Committee on Health for their dedication and commitment which enabled the Committees to complete the task within the stipulated timelines.

On behalf of the Committees, and pursuant to Section 16(2) of the Health Act (Cap 241), Section 8 of the Public Appointments (Parliamentary Approval) (Cap 7F), it is our pleasant duty to table the Report of the National Assembly Departmental Committee on Health and the Senate Standing Committee on Health, on the joint approval hearing of Dr. Patrick Omwanda Amoth, EBS for appointment to the position of Director-General for Health for adoption by Parliament.

SIGN:  DATE: 30/07/2024
Hon. (Dr.) ROBERT PUKOSE, CBS, MP
CHAIRPERSON, NATIONAL ASSEMBLY, DEPARTMENTAL
COMMITTEE ON HEALTH,

SIGN:  DATE: 30/07/2024
Sen. JACKSON K. MANDAGO, EGH, MP
CHAIRPERSON, SENATE STANDING COMMITTEE ON HEALTH

EXECUTIVE SUMMARY

The Public Service Commission (PSC) advertised for the position of Director-General for Health on 18th March 2024 in print media and the Public Service Commission (PSC) website. A total of 118 applications were received at close of the advert on 9th April 2024. Out of the 118 applicants nine (9) candidates were shortlisted for the position on 4th June 2024.

On 12th and 13th June 2024, the Commission conducted interviews of the shortlisted candidates at its offices in Commission House, Harambee Avenue, Nairobi. Out of the nine (9) shortlisted candidates, one (1) declined to be interviewed while one (1) candidate was not interviewed since she did not produce original academic and professional certificates. The remaining seven (7) candidates were interviewed and ranked in order of merit where Dr Patrick Omwanda Amoth, EBS was ranked the highest.

Consequently, the then Cabinet Secretary for Health, forwarded the name of Dr. Patrick Omwanda Amoth, EBS, for approval by Parliament as the Director-General for Health in accordance with Section 16(2) of the Health Act (Cap 241).

The Hon Speaker of the National Assembly vide a communication made on 26th June, 2024 and the Hon. Speaker of the Senate vide a communication made on 2nd July, 2024 conveyed to the National Assembly and the Senate respectively the Message from the Cabinet Secretary. They further referred the matter to the National Assembly Departmental Committee on Health and the Senate Standing Committee on Health, respectively, for the joint consideration of the Committees.

In accordance with section 6 (9) of the Public Appointments (Parliamentary Approval) Act, (Cap 7F), the Clerk of the National Assembly and the Clerk of the Senate invited interested members of the public to submit any representations, by written statements on oath (Affidavits), with supporting evidence, on the suitability of the nominee for appointment to the position of Director General for Health.

The Committees conducted the approval hearing on Thursday, 25th July 2024. In conducting the approval hearing, the Committees were guided by the provisions of the Constitution, the Public Appointment (Parliamentary Approvals) Act, (Cap. 7F), the Leadership and Integrity Act, (Cap. 185C), the Public Officer Ethics Act (Cap 185B), the Public Service Commission Act, (Cap. 185), the Health Act, (Cap. 241), the National Assembly Standing Orders and Senate Standing Orders.

Following the Committees' analysis of the submissions and representations received on the suitability of the nominee for appointment to the position of Director-General for Health, the Committees observe that Dr. Patrick Omwanda Amoth, EBS, demonstrated the requisite knowledge and experience to perform the functions of the Director-General for Health. He further met all statutory and constitutional requirements for appointment to the office of the Director-General for Health.

The Committees' further observe that the issues raised in the three memoranda were sufficiently addressed by the nominee during the approval hearing. However, informed by the concerns raised in the submissions received, the Ministry of Health ought to undertake adequate, purposive and meaningful public participation and stakeholder engagement as provided for in Article 10 and 232 of the Constitution to ensure that there is balanced and adequate representation and input of the divergent views of all stakeholders in the health sector in the development of policies and guidelines.

The Committees' having considered the suitability, competence, experience and integrity of Dr. Patrick Omwanda Amoth, EBS, following the approval process, and taking into account its observations and findings, and pursuant to the provisions of the Constitution, Public Appointments (Parliamentary Approval) Act, (Cap. 7F), the Health Act, (Cap. 241) the National Assembly Standing Orders and the Senate Standing Orders, recommend that Parliament **approves** the nomination of Dr. Patrick Omwanda Amoth, EBS for appointment as the Director-General for Health under Section 16 of the Health Act, (Cap. 241).

CHAPTER ONE

1. PREFACE

1.1 Establishment and Mandate of the National Assembly Departmental Committee on Health

The Departmental Committee on Health is established under Standing Order 216(5) of the National Assembly Standing Orders. The functions of the Committee are as follows-

- a) *To investigate, inquire into, and report on all matters relating to the mandate, management, activities, administration, operations and estimates of the assigned ministries and departments;*
- b) *To study the programme and policy objectives of ministries and departments and the effectiveness of the implementation;*
- c) *on a quarterly basis, monitor and report on the implementation of the national budget in respect of its mandate;*
- d) *To study and review all legislation referred to it;*
- e) *To study, assess and analyse the relative success of the ministries and departments as measured by the results obtained as compared with their stated objectives;*
- f) *To investigate and inquire into all matters relating to the assigned ministries and departments as they may deem necessary, and as may be referred to them by the House;*
- g) *To vet and report on all appointments where the constitution or any other law requires the national Assembly to approve, except those under Standing Order 204 (Committee on appointments);*
- h) *To examine treaties, agreements and conventions;*
- i) *To make reports and recommendations to the House as often as possible, including recommendation of proposed legislation;*
- j) *To consider reports of Commissions and Independent Offices submitted to the House pursuant to the provisions of Article 254 of the Constitution; and*
- k) *To examine any questions raised by Members on a matter within its mandate.*

1.2 Establishment and Mandate of the Senate Standing Committee on Health

The Standing Committee on Health is established pursuant to Standing Order 228 (3) and the Fourth Schedule of the Senate Standing Orders and is mandated to consider all matters relating to medical services, public health and sanitation. The functions of the Committee include to-

- a) *Investigate, inquire into, and report on all matters relating to the mandate, management, activities, administration and operations of its assigned ministries and departments;*
- b) *Study the programme and policy objectives of its assigned ministries and departments, and the effectiveness of the implementation thereof;*
- c) *Study and review all legislation referred to it;*
- d) *Study, assess and analyze the success of the ministries and departments assigned to it as measured by the results obtained as compared with their stated objectives;*

- e) Consider the Budget Policy Statement in line with the Committee's mandate;
- f) Report on all appointments where the Constitution or any law requires the Senate to approve;
- g) Make reports and recommendations to the Senate as often as possible, including recommendations for proposed legislation;
- h) Consider reports of Commissions and Independent Offices submitted to the Senate pursuant to the provisions of Article 254 of the Constitution;
- i) Examine any statements raised by Senators on a matter within its mandate; and
- j) Follow up and report on the status of implementation of resolution within their mandate.
- k) Follow up and report on the status of commitments made by the Cabinet Secretaries in their response to questions under Standing Order 51C

1.3 The Committee Membership

The following are the members of the Departmental Committee on Health of the National Assembly-

- | | |
|--|--------------------------|
| 1. Hon. (Dr.) Robert Pukose, EGH, MP | -Chairperson |
| 2. Hon. Ntwiga, Patrick Munene, MP | -Vice-Chairperson |
| 3. Hon. Owino Martin Peters, MP | -Member |
| 4. Hon. Muge Cynthia Jepkosgei, MP | -Member |
| 5. Hon. Wanyonyi Martin Pepela, MP | -Member |
| 6. Hon. Oron Joshua Odongo, MP | -Member |
| 7. Hon. Kipngok Reuben Kiborek, MP | -Member |
| 8. Hon. (Prof.) Jaldesa Guyo Waqo | -Member |
| 9. Hon. Nyikal James Wambura, MP | -Member |
| 10. Hon. Mukhwana Titus Khamala, MP | -Member |
| 11. Hon. Kibagendi Antoney, MP | -Member |
| 12. Hon. Sunkuli Julius Lekakeny Ole, MP | -Member |
| 13. Hon. Maingi Mary, MP | -Member |
| 14. Hon. Mathenge Duncan Maina, MP | -Member |
| 15. Hon. Lenguris Pauline, MP | -Member |

The following are the members of the Standing Committee on Health of the Senate-

- | | |
|---|--------------------------|
| 1. Sen. Jackson Kiplagat Mandago, EGH, MP | -Chairperson |
| 2. Sen. Mariam Sheikh Omar, MP | -Vice-Chairperson |
| 3. Sen. Erick Okong'o Mogeni, SC, MP | -Member |
| 4. Sen. Ledama Olekina, MP | -Member |
| 5. Sen. Abdul Mohamed Haji, MP | -Member |
| 6. Sen. Joseph Nyutu Ngugi, MP | -Member |
| 7. Sen. Raphael Chimera, MP | -Member |
| 8. Sen. Hamida Kibwana, MP | -Member |
| 9. Sen. Esther Anyieni Okenyuri, MP | -Member |

CHAPTER TWO

2. BACKGROUND

- 1) Health is shared by the National and county governments under the Constitution. The Fourth Schedule of the Constitution distributes the functions between the National and county governments. Alongside the Constitution there are other key legislative enactments relating to health such as the Health Act (Cap. 241). The Health Act (Cap. 241) unifies the health system and coordinates the inter-relationship between the National government and county governments health systems.
- 2) Further to the functions provided by the Health Act (Cap. 241), section 16 therein establishes the office of the Director-General for Health.¹ Section 17 of the Act thereafter provides for the functions of the office.
- 3) The Ministry of Health in its organizational structure has had the position of Director of Medical Services (DMS) since independence. The DMS was the Ministry's lead technical office. The position was later re-organized and renamed as the Director-General (DG) for Health by the Health Act (Cap. 241).
- 4) The first person to hold the office of the Director-General for health in 2017 after enactment of the Health Act (Cap. 241) was Dr. John Masasabi, who served for two (2) years until 2019 when Dr. Patrick Amoth was appointed in an acting capacity. It is worth noting that the position of Director-General for Health has not had a substantive holder since 2020.

2.1. Recruitment Process for the Position of the Director-General for Health

- 5) The Public Service Commission (PSC) advertised for the position of Director-General for Health on 18th March 2024 in the print media and on the Commission's website. A total of 118 applications were received by close of the application period advertised. Out of the 118 applicants nine (9) candidates were shortlisted for the position on 4th June 2024.²
- 6) On 12th and 13th June 2024, the Commission conducted interviews of the shortlisted candidates at its offices in Commission House, Harambee Avenue, Nairobi. Out of the nine (9) shortlisted candidates, one (1) declined to be interviewed while one (1) candidate was not interviewed since she did not produce original academic and professional certificates.
- 7) The remaining seven (7) candidates were interviewed and ranked in order of merit where Dr Patrick Omwanda Amoth, EBS was ranked the highest. The Commission during its 2810th Board Meeting of 19th June, 2024, recommended Dr. Amoth Patrick Omwanda, EBS for appointment to the position of Director-General for Health subject to the conditions set out in section 16(2) of the Health Act (Cap 241).

¹ Health Act No. 21 of 2017

² Public Service Commission – Report on Recruitment for the position of Director General for health, Ministry of Health

- 8) Consequently, the then Cabinet Secretary for Health, forwarded the name of Dr. Patrick Omwanda Amoth, EBS for approval by Parliament as the Director-General for Health in accordance with Section 16(2) of the Health Act (Cap 241).

2.2. Legal Framework

- 9) The following provisions of the Constitution and statutes were paramount to the Committees as they executed their mandate-
- a. Article 10 of the Constitution on the national values and principles of governance;
 - b. Article 232 of the Constitution on values and principles of public service;
 - c. The Public Appointments (Parliamentary Approval) Act, (Cap. 7F);
 - d. The Leadership and Integrity Act, (Cap. 185);
 - e. The Public Service (Values and Principles) Act, (Cap. 185A);
 - f. The Public Officer Ethics Act, (Cap. 185B)
 - g. The Public Service Commission Act, (Cap. 185); and
 - h. The Health Act, (Cap. 241).

Article 232 of the Constitution on Values and Principles of Public Service

- 10) Article 232 of the Constitution provides for the values and principles of public service which include-
- (a) high standards of professional ethics;
 - (b) efficient, effective and economic use of resources;
 - (c) responsive, prompt, effective, impartial and equitable provision of services;
 - (d) involvement of the people in the process of policy making;
 - (e) accountability for administrative acts;
 - (f) transparency and provision to the public of timely, accurate information;
 - (g) fair competition and merit as the basis of appointments and promotions;
 - (h) representation of Kenya's diverse communities; and
 - (i) affording adequate and equal opportunities for appointment, training and advancement, at all levels of the public service of men and women, the members of all ethnic groups and persons with disabilities.

Article 10(2) of the Constitution

- 11) Article 10(2) of the Constitution provides for the national values and principles of governance which include patriotism, national unity, sharing and devolution of power, the rule of law, democracy and participation of the people; human dignity, equity, social justice, inclusiveness, equality, human rights, non-discrimination and protection of the marginalized; good governance, integrity, transparency and accountability; and sustainable development.

Health Act (Cap 241)

12) Section 16 of the Health Act, (Cap. 241) provides that:

“16. (1) There shall hereby be established the office of the Director-General for health.

(2) The Director-General for health shall be recruited by the Public Service Commission through a competitive process, vetted by Parliament and appointed by the Cabinet Secretary.

(3) A person appointed under subsection (2) must—

a) be a medical practitioner registered by the Medical Practitioners and Dentists Board;

b) at least be a holder of a master’s degree in public health, medicine or any other health related field;

c) have experience of at least ten years in management of health services, five of which must be at a senior management position; and

d) meet the provisions of Chapter Six of the Constitution of Kenya.

(4) The Director-General shall hold office for a term of five years renewable once. “

The Public Appointments (Parliamentary Approval) Act, (Cap. 7F)

13) Section 7 of the Public Appointments (Parliamentary Approval) Act, (Cap. 7F), outlines the issues which the House is supposed to consider in relation to any nomination. The issues are:

(i) the procedure used to arrive at the nominee;

(ii) any constitutional and statutory requirements relating to the office in question; and

(iii) the suitability of the nominee for the appointment proposed having regard to whether the nominee’s abilities, experience and qualities meet the needs of the body to which nomination is being made.

14) During the approval hearing, section 6 of the Public Appointments (Parliamentary Approval) Act (Cap. 7F) sets the important areas in the process, viz:

(a) an approval hearing shall focus on a candidate’s academic credentials, professional training and experience, personal integrity and background (section 6(7));

(b) the criteria specified in the Schedule to the Public Appointments (Parliamentary Approval) Act (Cap. 7F) shall guide the approval hearing (section 6(8));

(c) any person may, prior to the approval hearing, and by written statement on oath, provide the Clerks of Parliament with evidence contesting the suitability of a candidate to hold the office to which the candidate has been nominated (section 6(9)); and

(d) a candidate may, at any time, by notice in writing addressed to the Clerks of Parliament, withdraw from the approval process and the candidate’s nomination shall lapse (section 6(10)).

The Public Service (Values and Principles) Act (Cap. 185A)

- 15) Section 5 of the Public Service (Values and Principles) Act (Cap. 185A) provides that a public officer shall, upon appointment, maintain high standards of professional ethics, including, being honest; displaying high standards of integrity, transparency, accountability, respect to others, objectivity, patriotism and observance of rule of law.

The Public Officer Ethics Act, (Cap. 185B).

- 16) The Public Officer Ethics Act (Cap 185B) makes provision for the obligations to be observed by a public officer upon appointment to office. These include:
- (a) professionalism;
 - (b) carrying out duties in accordance with the law;
 - (c) prohibition from unjust enrichment;
 - (d) avoiding conflict of interest, not using a public office as a venue for soliciting or collecting *harambees*;
 - (e) not acting for foreigners;
 - (f) care of property;
 - (g) political neutrality;
 - (h) not practicing nepotism or favouritism;
 - (i) giving impartial advice;
 - (j) conducting private affairs in a way that maintains public confidence;
 - (k) prohibition from sexual harassment; and
 - (l) submission of declaration of income, assets and liabilities once every two years (section 26).

2.3. Qualifications for appointment as the Director-General for Health

- 17) Section 16(3) of the Health Act, (Cap. 241) provides the qualifications for a person to be appointed as the Director-General for health as follows:

“(3) A person appointed under subsection (2) must—

- a) be a medical practitioner registered by the Medical Practitioners and Dentists Board;*
- b) at least be a holder of a Masters degree in public health, medicine or any other health related field;*
- c) have experience of at least ten years in management of health services, five of which must be at a senior management position; and*
- d) meet the provisions of Chapter Six of the Constitution of Kenya.”*

- 18) Section 17 of the Health Act (Cap. 241) provides the functions of the Director-General for health. It states that the Director-General for health shall:

- a) be the technical advisor to the Government on all matters relating to health within the health sector;*
- b) be the technical advisor to the Cabinet Secretary of health;*
- c) be responsible for preventing and guarding against the introduction of infectious diseases into Kenya;*
- d) promote the public health and the prevention, limitation or suppression of infectious, communicable or preventable diseases within Kenya;*
- e) advice the two levels of Government on matters of national security on public health;*

- f) promote and facilitate research and investigations in connection with the prevention or treatment of human diseases;
- g) prepare and publish reports and statistical or other information relative to the public health;
- h) obtain and publish periodically information on infectious diseases and other health matters and such procurable information regarding epidemic diseases in territories adjacent to Kenya or in other Countries as the interests of public health may require;
- i) provide guidelines for registration, licensing, certification and gazettelement of all health facilities;
- j) be responsible for internship program for health workers;
- k) supervise the directorates within the national Ministry of health; and
- l) perform any other duties as may be assigned by the appointing authority and any other written law.

2.4. Notification of the Nomination

- 19) In accordance with section 5 of the Public Appointments (Parliamentary Approval) Act, (Cap. 7F), the Speaker of the National Assembly received a letter on 24th June 2024 from the then Cabinet Secretary for Health, Ms. Nakhumicha Wafula, EGH notifying the National Assembly of the recruitment of Dr. Amoth Patrick Omwanda for appointment as the Director-General for Health and submitting the name for vetting by Parliament. (*Annex 2 a*) (*Notification to the National Assembly by the Cabinet Secretary, Ministry of Health*).
- 20) Pursuant to standing order 42(1) of the National Assembly Standing Orders, the Speaker of the National Assembly conveyed the message on the notification to the National Assembly on Wednesday, 26th June 2024. (*Annex 3 a*) (*Communication from the Speaker of the National Assembly*)
- 21) Similarly, the Speaker of the Senate received a letter on 28th June, 2024 from the then Cabinet Secretary for Health, Ms. Nakhumicha Wafula, EGH notifying the National Assembly of the recruitment of Dr. Amoth Patrick Omwanda for appointment as the Director-General for Health and submitting the name for vetting by Parliament (*Annex 2 b*) (*Notification to the Senate by the Cabinet Secretary, Ministry of Health*).
- 22) Thereafter at a sitting of the Senate held on 3rd July 2024, the Speaker of the Senate conveyed the message on the notification to the Senate. (*Annex 3 b*) (*Communication from the Speaker of the Senate*)
- 23) Pursuant to section 4 of the Public Appointments (Parliamentary Approval) Act, (Cap. 7F), Standing Order 216 (5) (f) of the National Assembly Standing Orders and Standing Order 77(1) of the Senate Standing Orders, the name of the candidate was submitted to the National Assembly Departmental Committee on Health and the Senate Standing Committee on Health to jointly conduct approval hearing and report to the respective Houses on the suitability of the candidate for appointment.

2.5. Notification to the Public

- 24) In accordance with section 6(3) of the Public Appointments (Parliamentary Approval) Act, (Cap. 7F), Standing Order 45(3) of the National Assembly Standing Orders and Standing Order 77(2) of the Senate Standing Orders, the Clerk of the National Assembly and the Clerk of the Senate placed advertisements in the local dailies notifying and inviting Dr. Amoth Patrick Omwanda to attend an approval hearing scheduled to take place on Thursday, 25th July, 2024 at the Parliament Buildings, Nairobi at 10:00am. (*Annex 4*) (*Notification of Approval Hearing for Dr. Patrick Omwanda Amoth, Nominee for appointment to the Position of Director-General for Health*).
- 25) This notification was followed up with letters to Dr. Amoth Patrick Omwanda inviting him to attend the approval hearing and requesting him to submit the completed Questionnaire set out in the Schedule to the Public Appointments (Parliamentary Approval) Act, (Cap. 7F) together with clearance certificates from the Ethics and Anti-Corruption Commission (EACC), Kenya Revenue Authority (KRA), Higher Education Loans Board (HELB), Office of the Director of Criminal Investigations (DCI), and any credit reference bureau (*Annex 5*) (*An invitation Letter to Dr. Patrick Omwanda Amoth*).
- 26) Pursuant to the provisions of Article 118 of the Constitution, section 6(3) of the Public Appointments (Parliamentary Approval) Act, (Cap. 7F), Standing Order 45(3) of the National Assembly Standing Orders and Standing Order 77(2) of the Senate Standing Orders, the Clerk of the National Assembly and the Clerk of the Senate, by way of advertisements in print media, notified the general public of the intention of the Committees to conduct the approval hearing on Thursday, 25th July, 2024 at Parliament Buildings, Nairobi at 10:00am.
- 27) Section 6(9) of the Public Appointments (Parliamentary Approval) Act, (Cap. 7F) provides that “*any person may, prior to the approval hearing, and by written statement on oath, provide the Clerk with evidence contesting the suitability of a candidate to hold the office to which the candidate has been nominated*”.
- 28) This section therefore permits any person to provide the Clerk of the National Assembly or the Clerk of the Senate with evidence contesting the suitability of a candidate to hold the office to which the candidate has been nominated or recruited. Notably, such evidence should be provided to the Clerks in the form of a written statement made on oath and must be submitted prior to the approval hearing. In conformity with this, the Clerk of the National Assembly and the Clerk of the Senate, through an advertisement in print media on 5th July 2024, invited the public to submit memoranda, vide a written statement on oath, on the suitability or otherwise of the nominee on or before Friday, 19th July 2024 at 5.00 pm (*Annex 4*) (*Notification of Approval Hearing for Dr. Patrick Omwanda Amoth, Nominee for appointment to the Position of Director-General for Health*

2.6. Clearance Requirements

29) The Clerks of the Houses of Parliament wrote to the Kenya Revenue Authority (KRA), the Higher Education Loans Board (HELB), the Ethics and Anti-Corruption Commission (EACC), the Office of the Registrar of Political Parties (ORPP), Office of the Director of Public Prosecutions (ODPP) and the Directorate of Criminal Investigations (DCI) requesting for the tax, education loans, integrity, affiliation to political parties and criminal record status of Dr. Amoth Patrick Omwanda (*Annex 6 Clearance Reports*)

2.7. Committee proceedings

30) In preparation for the approval hearing, the Committees held a joint sitting on Tuesday, 23rd July 2024 where they were briefed on the procedures of the approval hearing and the Memoranda received in relation to the vetting of the candidate (*Annex 1*) (*Minutes of the 1st joint sitting of the Committees*)

31) The Committees were informed that three (3) Memoranda had been received from-

- a. Dr. Wahome Ngare, Obstetrician/ Gynaecologist and the Chairperson of the Kenya Catholic Doctors Association and Founding Chairperson of the African Sovereignty Coalition.
- b. Mr. Javan Ogwang, Kabarak University; and
- c. The Global Association of Clinical Officers and Physician Associates.

32) The Committees were further informed that Mr. Javan Ogwang and the Global Association of Clinical Officers and Physician Associates raised concern regarding Dr. Amoth's comments in a media interview in which it was alleged that the comments by the candidate indicated that he did not respect the cadre of clinical officers and their training and opposed the training of more clinical officers.

33) The Committee was further informed that the memorandum by Dr. Wahome Ngare, an Obstetrician/ Gynaecologist, was accompanied by a sworn affidavit and a request to appear before the Committees (*Annex 7*) (*Memorandum by Dr. Wahome Ngare*). The memoranda raised the following issues regarding Dr. Amoth's tenure as the AG. Director General for health-

- a. Management of Covid-19 Pandemic;
- b. Management of malaria eradication specifically through the use of malaria vaccine and GMO mosquitos in the fight against malaria;
- c. Clinical guidelines that support termination of pregnancies and destruction of foetuses;
- d. Utilization of the HPV vaccine to reduce the prevalence of cervical cancer; and
- e. Concerns over of Dr. Amoth's submission to WHO initiatives and advisory raising concerns on conflict of interest with his position as the acting Director-General for health

34) In view of the issues raised by Dr. Wahome Ngare and his request to appear before the Committees, the Committees resolved that Dr. Wahome Ngare be invited to address them on the 25th July, 2024 before the approval hearing.

CHAPTER THREE

3. APPROVAL HEARING OF THE NOMINEE

- 35) Pursuant to the provisions of the Public Appointments (Parliamentary Approval), (Cap. 7F), the Committees jointly conducted the approval hearing on Thursday, 25th July, 2024. The Committees examined the nominee using the criteria provided in the Public Appointments (Parliamentary Approval) Act, (Cap. 7F) and considered the following in vetting the nominee:
- (a) academic qualifications;
 - (b) employment record and work experience;
 - (c) professional association;
 - (d) public office, political activities and affiliations;
 - (e) potential conflict of interest;
 - (f) suitability to the position;
 - (g) tax compliance;
 - (h) vision and leadership;
 - (i) integrity; and
 - (j) expectations and key priorities.
- 36) The Committees sought information from the following agencies on the nominees clearance and compliance status:
- (a) The Kenya Revenue Authority, indicating that the nominee was tax compliant;
 - (b) The Higher Education Loans Board, stating that the nominee had no outstanding loans owed to the Board;
 - (c) The Ethics and Anti-Corruption Commission confirming that the Commission had not undertaken any investigations against the nominee;
 - (d) The Directorate of Criminal Investigations outlining that the nominee was not the subject of any investigation undertaken by the Directorate; and
 - (e) The Office of the Registrar of Political Parties stating that the nominee was not an official of any registered political party in the country.

3.1.1. Consideration of Memoranda

- 37) The Committees considered the three memoranda that had been received as required by the provisions of the Public Appointments (Parliamentary Approval) Act.

Memoranda by Dr. Wahome Ngare, Obstetrician/ Gynaecologist

- 38) Dr. Wahome Ngare who had submitted a written memorandum raised the following issues-
- a. he is a practicing Obstetrician/ Gynaecologist, Chairperson of the Kenya Catholic Doctors Association and the founding Chairperson of the African Sovereignty Coalition; and
 - b. the nominee, who was also the acting Director-General for health, had been acting since 2020 and in that period, he had demonstrated that he is not fit and suitable to hold the said office for the following reasons-

(a) Management of the Covid-19 Pandemic

- i. subjecting Kenyans to psychological torture by using fear by indicating that Coronavirus Disease (Covid-19) did not have treatment and vaccines would be the only way to return Kenyans back to normal;
- ii. refusing to acknowledge and recommend treatment of the viral replication phase of Covid-19 with repurposed drugs such as vitamin D, Ivermectin and hydroxychloroquine which were safe and effective and would have reduced transmission and mortality. Guidelines under his watch clearly discouraged treatment of the early phase of the disease and recommended the use of hydroxychloroquine in the second phase when it was ineffective;
- iii. introducing lockdowns for containment of aerosol or airborne spread respiratory diseases; lockdowns and contact tracing did not make sense given that they overlook the well-established physics of respiratory emission; and
- iv. recommending use of Covid-19 vaccines without reviewing the phase I and II clinical trial results (which only become public after a court order issued in the USA) to ascertain their safety and efficiency thereby creating a national security risk since healthcare workers and security officers were the first to be immunized; Dr. Amoth was the index candidate to receive the vaccine. Given that the vaccines were experimental, Kenyans never got a chance to give informed consent as there was no disclosure of the risks beforehand and were only given an assurance by World Health Organization (WHO).

(b) Nominee supports the killing of unborn children contrary to medical ethics and the law.

He informed the Committee that the nominee without knowledge of the Cabinet Secretary attempted to launch guidelines that provided for medical uterine evacuation procedures illegally sanctioning the killing of unborn children up to 28 weeks for risky or unintended pregnancy which would be contrary to Article 26(4) of the Constitution and section 6(2) of the Health Act, (Cap. 241). The launch was stopped after Kenya Catholic Doctors Association and catholic bishops brought the matter to the attention of the Cabinet Secretary who called off the launch.

(c) Management of malaria

Dr. Wahome informed the Committees that the nominees management of malaria is wanting in that he sanctioned the use of vaccination and GMO mosquitos in the fight against malaria in the country. He submitted that malaria vaccine is unnecessary as malaria is treatable and can be eliminated by ensuring the availability of life saving medicine and the use of safer environmental measures.

(d) Management of Human Papillomavirus (HPV)

The Committees were informed that management of HPV is causing vaccine hesitancy. Dr. Wahome stated that MOH campaigns present the HPV vaccine as a prevention of cancer of the cervix and yet it is for the prevention of a sexually transmitted virus, HPV. HPV vaccinations are also being done in schools without informed parental consent making parents suspicious of the intention of the movement.

(e) Conflict of Interests

He submitted that the nominee's submission to WHO initiatives and advisories risks compromising national sovereignty for instance in the management of C-19, malaria and HPV are similar to WHO's guidelines. There is a clear conflict of interest as he would not be objective having served as the Vice Chair and later Chair of the Executive Committee of WHO.

He further submitted that the nominee had not spoken against the International Health Regulations and the new pandemic treaty that contains clauses that threaten the country's national security and sovereignty but rather his office appears to be facilitating the process.

(f) the process of appointment of the Director General

He submitted he had two issues in that:

- (i) the Cabinet Secretary for Health forwarded the name of the DG to Parliament contrary to section 16(2) of the Act; to him, Parliament should have received a report from the Public Service Commission indicating the candidate interviewed, marks awarded to each and reasons why the successful candidate was arrived at;
- (ii) the utterances by the CS in the *Business Today* article of 22nd June 2024 that she had confidence that Dr. Amoth should emerge the best is contrary to Article 6 and Chapter Ten of the Constitution. These utterances showed bias, favoritisms, was unfair to other candidates and amounts to interference with the independence of the public service. It also appears that the interview was conducted before the CS had received the report from PSC.

Memorandum by Mr. Javan Ogwang

39) The Committees were informed that a memorandum from Mr. Javan Ogwang had also been received. Mr. Ogwang indicated that he was against the approval of Dr. Amoth as the Director-General for Health on because he wants '*clinical medicine as a course and clinical officers as professionals discontinued and wiped out of the face of Kenya*'. (Annex 8) Memorandum by Javan Ogwang)

40) Mr. Javan Ogwang attached news clip which indicated that Dr. Amoth did not command the respect of clinicians hence he cannot lead the people he does not even want to see. He further submitted that Clinical Officers as a cadre are all over the World for example, in the United States as assistant physician, in the United Kingdom as physician associate and in China as rural doctors.

Memorandum by Global Association of Clinical Officers and Physicians Associates

- 41) The Committees were further informed that memorandum from the Global Association of Clinical Officers and Physicians Associates (GACOPA) had also been received on email on the Unsuitability of Dr. Patrick Amoth as Director General of Health (*Annex 9*) (*Memorandum by GACOPA*). GACOPA expressed their concerns regarding the statements and actions of Dr. Patrick Amoth, in his capacity as the acting Director General of Health. They submitted that they believe that Dr. Amoth's remarks and policies demonstrated a fundamental misunderstanding and misrepresentation of the clinical officer's profession, thereby rendering him unsuitable for this position.
- 42) In the memorandum, the Association accused Dr. Amoth of false and misleading statements stating that, as the principal advisor to both the Ministry of Health and the President of Kenya, Dr Amoth's public statement that clinical officers are only found in Kenya is false and baseless since clinical officers are present in over 50 countries globally, with training programs extending up to the PhD level. The Association submitted that such misinformation undermines the credibility of the health sector and disrespects the clinical officer profession.
- 43) Additionally, the Association submitted that the lack of apology or correction by Dr. Amoth despite the gravity of his erroneous statement, demonstrates a lack of accountability and disregard for the impact of his words on the clinical officer's community and the broader healthcare system. They also accused Dr. Amoth of orchestrating the phasing out of clinical officer training and his involvement in efforts to phase out the training of clinical officers at a time when global integration and professional harmonization are critical. Further that this move is counterproductive, especially as the East African Community is working towards the harmonization of the clinical officer profession across member countries.
- 44) The Association concluded that the clinical officer profession is crucial to the healthcare systems of many countries and submitted that in East Africa a harmonization team was actively working on standardizing the profession across the region. They submitted that Dr. Amoth's actions and policies threaten to isolate Kenya from this important regional and global initiative, undermining the progress towards professional recognition and mobility.
- 45) The Association therefore urged the Parliament to take necessary actions to address this issue and ensure that the leadership within the Ministry of Health reflects a true understanding and support for all healthcare professionals, including clinical officers.

3.1.2. Dr. Patrick Amoth's Response to the Memoranda

- 46) The Dr. Patrick Amoth responded to the memoranda by a sworn affidavit (*Annex 10*) (*Response Affidavit by Dr. Patrick Amoth*) and informed the committees as follows:
- 1) **Covid-19 Response**; he refuted claims of fear-mongering and misinformation, highlighting his reliance on technical expertise and

- adherence to established protocols for lockdowns, treatment recommendations, and vaccine rollout.
- 2) **Vaccine Efficacy and Safety**; he emphasized the effectiveness of COVID-19 vaccines in reducing illness severity, hospitalization, and death, and clarified concerns regarding specific vaccine platforms and side effects.
 - 3) **Natural Immunity vs. Vaccine Induced Immunity**; while acknowledging the role of natural immunity, the standardized and controlled protection offered by vaccines and highlighted the importance of herd immunity for protecting vulnerable populations.
 - 4) **RT-PCR Testing**; he defended the value of RT-PCR testing for diagnosing Covid-19 infections while acknowledging its limitations in distinguishing active from inactive virus.
 - 5) **Maternal Health Guidelines**; he clarified the use of the term "uterine evacuation" and emphasize adherence to legal and ethical frameworks regarding abortion.
 - 6) **Constitutional Interpretation**; he argued that legal interpretations of the Kenyan Constitution regarding abortion extended beyond a literal reading and require deeper legal analysis.
 - 7) **Malaria Control**; he defended his exploration of innovative tools like GMO mosquitoes alongside traditional methods for malaria control, emphasizing evidence-based decision-making.
 - 8) **HPV Vaccination**; he refuted claims of promoting vaccine hesitancy and highlighted the benefits of HPV vaccination in preventing cervical and other cancers, addressing concerns regarding safety and emphasizing informed consent.
 - 9) **WHO Collaboration**; he clarified that while Kenya adheres to WHO recommendations, it still maintains national sovereignty, emphasizing that the country takes critical evaluation and adaptation of WHO guidance in the Kenyan context. He clarified that the misconceptions regarding his role in the WHO Executive Board conflicted with his role as the DG of Health is misplaced since the position held is rotational to all members.
- 47) The candidate submitted that his actions portrayed his leadership and commitment to public health in Kenya and emphasized his reliance on scientific evidence, adherence to ethical guidelines, and that he is focused on protecting the health of the Kenyan population. He further attached in his written submissions various research papers, reports, and guidelines he had contributed to develop to support his assertions.

3.1.3. Further response to the Memoranda

- 48) The candidate refuted claims that that his sentiments during a media interview with respect to the clinical officers were intended to demean the cadre in any way. He argued that it was taken out of context. Clarifying the matter, the candidate informed the Committee that his position as advice to the Government is that there is a need to reevaluate and honest conversations on the role of clinical officers in the national health system. This intervention is imperative because while the practitioners are the first point of call and have a pivotal role

to play at the primary care level, there is a lack of a clear pathway in the current health arrangement.

- 49) He further added that the management of the Covid-19 pandemic was informed by the facts related to its transmissions. Furthermore, at the time of the outbreak, there was no existing template for its management, and as such, the medical community, including the Ministry, relied on continuous learning and scientific data at the national and global levels. He also indicated that he relied on teamwork from various stakeholders, including academicians, the private sector, and practitioners. This immediate focus on an unplanned pandemic required strategic leadership to make tough decisions, including lots of resources to execute the interventions required at the time.
- 50) On vaccine efficacy and safety with respect to Covid-19 and generally, the nominee added that while he appreciated the role of natural immunity, vaccine-related immunity was also considered as it was vital to enhancing herd immunity, particularly to those considered vulnerable like older people and those with chronic conditions. He assured the Committee that the health mantra also guided his decisions that the benefits outweigh the risks. Based on the Covid-19 experience, chain reaction testing centers have been enhanced, and over 100 laboratories have been installed to respond to such unexpected shocks and outbreaks.
- 51) The candidate also defended the use of the malaria vaccine. He alluded that malaria is a global health burden, particularly in sub-Saharan Africa, with statistics by WHO showing that at least 249 million cases in 2022, 80 percent of which are children below the age of 5 years and a further 600,000 deaths, 90 percent of which were based in sub-Saharan Africa. The nominee lauded the efforts of Kenyan scientists and the principal architecture of the malarial vaccine, RTS, but added that there is a global shift towards the R21 vaccine, which is considered cheaper.
- 52) With respect to HPV vaccination, the candidate added that the HPV vaccine was approved in 2020 and prequalified in 2022 and is currently in use in 172 countries of the 189 countries of the UN global community. He argued that the use of vaccines was informed by evidence which shows that cervical cancer is on the increase in Kenya, exceeding Breast cancer. Furthermore, longitudinal studies in the UK showed that girls who had received vaccination at the age of 10 years did not show single cases years later.

He also emphasized the other complementing methods, like early screening of precancerous lesions, while addressing concerns regarding safety and emphasizing informed consent.

3.1.4. Approval Hearing

- 53) The candidate also presented before the Committees his certificate of good conduct issued by the Directorate of Criminal Investigations, loan clearance certificate from the Higher Education Loans Board, clearance certificate from the Ethics and Anti-Corruption Commission, clearance certificate from the Kenya Revenue Authority and a letter from the Office of the Registrar of

Political Parties confirming he was not an official of any political party registered in Kenya.

3.2. The Nominee's Background

54) Dr. Patrick Omwanda Amoth, informed the Committees that he is a Kenyan citizen and does not hold dual citizenship. He was born in Siaya County on 25th December 1968.

3.3. Academic and Professional Qualifications

55) Dr. Amoth informed the Committees that he holds a Bachelor's degree in Medicine and Surgery (MBChB) from the University of Nairobi acquired in 1992 and a Master's degree in Medicine in Obstetrics and Gynaecology (MMed.) acquired in 2001 from the University of Nairobi. He further undertook a Diploma in Health Systems Management at Galilee College in Israel in the year 2006.

56) Additionally, Dr. Amoth has acquired two (2) senior management courses namely the Senior Management of Health Systems Strengthening Course (SMC) and the Strategic Leadership Development Programme (SLDP) from the Kenya Institute of Administration (KIA) and the Kenya School of Government (KSG) respectively.

3.4. Employment Record and Work Experience

57) Dr. Amoth is a Medical Practitioner registered by the Kenya Medical Practitioners and Dentists Council (KMPDC) under Registration Number A3650. He is an Obstetrics and Gynaecology specialist. He started his career as a Medical Officer at Kisumu Provincial Hospital in 1993. His first appointment to the Ministry of Health was in 2016 as the Head of Family Health Department.

58) He rose through the ranks within the Ministry of Health to the position of Director of Public Health in 2018 where he served for two (2) years before his appointment as Acting Director-General for Health in the year 2020, a position he was holding as at the date of the approval hearing.

59) He enumerated his employment record as below:

- a) Ag. Directorate General for Health, Ministry of Health – Kenya February 2020 – To date;
- b) Head, Directorate of Public Health, Ministry of Health – Kenya February 2018 to February 2020;
- c) Head, Department of Health Sector Coordination & Intergovernmental Affairs, Ministry of Health -Kenya September 2016 to January 2018;
- d) Head, Department of Family Health, Ministry of Health - Kenya November 2012 to September 2016;
- e) Senior Deputy Director of Medical Services/ Chief Medical Specialist, Mama Lucy Kibaki Hospital April 2012 to October 2012;

- f) Chief Medical Specialist, Machakos Level V Hospital, Machakos District November 2011 - April 2012;
- g) District Medical Services Officer, Kiambu East & Kiambu West Districts April 2001 to November 2011;
- h) Senior House Officer, Department of Gynaecology & Obstetrics, Kenyatta National Hospital November 1997 to February 2001; and
- i) Medical Officer, Provincial Hospital – Kisumu 1993-November 1997.

3.5. Honors and Awards

- 60) The candidate informed the Committee that he had received the following awards:
- (a) The Presidential Order of Service, Uzalendo Award issued in June 2020 in honour of the exemplary service, sacrifice, patriotism, heroism and high sense of civic duty in helping steer the country through the COVID-19 pandemic.
 - (b) The Presidential Honour, Elder of the Order of the Burning Spear (EBS) issued in December 2020 for distinguished professional services to members of the public.
 - (c) Election as the Chairperson of the World Health Organization (WHO) Executive Board (2021-2022) by WHO Member States in June 2021.
 - (d) Appointment by the WHO Director General as the Chair of the International Health Regulations (2005) (IHR) Review Committee regarding the Amendments to the IHR (RC) from September 2022 to January 2023.

3.6. Relevant experience for the position of Director General for Health

- 61) The candidate informed the Committees that he has over 30 years of experience in health systems management, reproductive health and public health at community, country, regional and global level.
- 62) It was noted that Dr. Amoth has been acting as the Director General for Health since January 2020. During the period Dr. Amoth successfully developed key national and international health policies and guidelines including the Universal Health Coverage roadmap for Kenya and introduction of Pneumococcal, HPV, Rotavirus and management of COVID-19 pandemic and vaccines.
- 63) He exhibited leadership expertise demonstrated by serving at the Ministry of Health as representative at key national and international forums, conferences, technical working groups, and advisory boards.

3.7. Integrity and Leadership

- 64) The candidate informed the Committee that he has never been mentioned adversely in any report by a Parliamentary Committee or an Independent Commission. He also confirmed that he had no previous conviction or an ongoing case in court and that he is a person of high integrity. The nominee further submitted clearance from the Ethics and Anti-Corruption Commission, the Directorate of Criminal Investigation, the Kenya Revenue Authority (KRA),

the Higher Education Loans Board (HELB), and the Office of the Registrar of Political Parties.

3.8. Financial Net worth

65) The candidate stated that his net worth is Kshs. 120,400,000 in Assets with Liabilities worth Kshs. 20,570,000. He reported his sources of annual income as follows.

- a. Gross Salary 7,427,520.00
- b. Gross Consultancy-WHO 1,500,000.00
- c. Gross Local Consultancy 1,200,000.00
- d. Gross Dividends KMA Sacco 750,000.00
- e. Gross Rental Income 300,000.00
- f. Gross Dividends NSE 150,000.00

3.9. Conflict of Interest

66) The candidate informed the committees that his work with the WHO does not present a situation of conflict of interest. He submitted that his appointment at the WHO was as a result of the WHO rotational process where member countries get opportunity to serve in the executive board. He assured the committee that he would ensure independence, reliance in scientific evidence and ethical guidelines and focus on protecting the health Kenyan population if approved.

3.10. Public Office, Political Activities and Affiliations

67) The candidate is not affiliated to any political party as per the communication received from the Registrar of Political Parties.

3.11. Vision of the Candidate

68) The candidate noted that his vision is to transform the service for a safe and secure nation. He indicated that he envisions a health system that is robust and capable of providing accessible, quality and equitable health care to all Kenyans and a destination of choice for healthcare services.

69) To achieve this, he seeks to build the capacity of the human resources for health focusing on preventive as opposed to curative. Further, in terms of leveraging on the diminishing resources, the nominee informed the Committee that he would leverage the existing multidisciplinary teams on both levels of government, institute frequent system audits to rationalize resources and leverage partnerships while focusing on patient-centered health care at the household level.

3.12. Other Emergent Issues

70) Health financing is a critical enabler for the attainment of Universal Health Care. The implementation of the Social Health Insurance Fund (SHIF) had been extended from July to October 2024. The implementation is further complicated by the High Court of Kenya decision in HCCP No. 473 of 2023 where the Social Health Act, the Digital Health Act and the Primary Health Care Act were declared to be in violation of the Constitution. With the foregoing, the

Committees sought the candidate's view on the gaps in the implementation of this laws and the universal health care policy.

The candidate submitted that the policy of Social Health Insurance seeks to resolve some of the challenges encountered during the implementation of National Health Insurance Fund (NHIF) for example, reliance on formal employees only as contributors and government-enhanced schemes that had resulted in unsustainable utilization. It was his opinion that the policy was good and implementable but the government had failed to adequately communicate and educate the public on the law hence the ruling by the courts on public participation.

- 71) Chapter 6 of the Constitution and the Leadership and Integrity Act 2011 bestows state and public officers the highest level of trust and integrity. Unfortunately, the Ministry of Health had in several occasions been referred to as a 'mafia house' due to the public's perceived lack of accountability.

The candidate submitted that the public was justified as the Ministry has failed in its communication and accountability frameworks. He submitted that if approved for the position of Director General for Health he would improve the MOH communication and accountability frameworks to restore public trust.

- 72) The Committee questioned the nominee on the issue of management of human resources for health and how best he would advise the National and county government.

The candidate submitted that his priority if confirmed in the position of Director General would be in addressing the challenges in the human resource for health. He highlighted that the Health Act 2017 established the Kenya Health Human Resource Advisory Council to address the issues of human resources He urged the Parliament to facilitate the Kenya Health Human Resource Advisory Council through the budget to carry out its mandate.

- 73) The Committee sought to understand the views of the nominee on the issue of Managed Equipment Scheme (MES) and how best he would have handled the issues regarding its advantages and disadvantages to the counties.

The candidate informed the Committee that MES was a good initiative and it has served some of the counties well for the last ten (10) years. He stated that ensuring a consultative process between the National and county governments would have been the best way and it would have allowed the governments to have tailor-made solutions and ideas to handle well the equipment. He further argued that he would rely on legal advice to support his decision making in such circumstances.

- 74) The candidate reiterated his commitment to promoting primary healthcare as a means to ensure access to healthcare services countywide. He illustrated achievements realized since the implementation of the Community Healthcare

Promoters, among them an increase in the number of people screened for several non-communicable diseases leading to improved health outcomes. He submitted if approved for the position he will utilize the existing frameworks to support both the National and county governments to promote access to quality healthcare in all counties.

- 75) The candidate submitted that Kenya is a member state in WHO and WHO does not impose guidelines on its member states but rather issues advisory which the members evaluate and adapt to meet their unique needs. He reiterated and committed to ensuring and maintaining national sovereignty, even as the Ministry collaborates with WHO on various health programs. He reiterated the modalities of nomination to the WHO Executive Board, which is rotational and allayed fears of influence by the global body, saying that WHO guidelines are adopted and adapted by member states, including Kenya, taking into consideration contextual variabilities.
- 76) The candidate informed the committees that he is committed to being guided by the Constitution and the roles of the Health Act 2017 while engaging with global health mechanisms like WHO and the Global Fund. In the same respect, the nominee called for support from Parliament in addressing budget constraints in the sector to minimize the reliance on global funding and its conditionalities. He concluded by promising to develop a long-term sustainability plan. He assured the committee that he would ensure independence, reliance in scientific evidence, adherence to ethical guidelines and focus on protecting the health of the Kenyan population if approved for the Position of Director-General for Health.
- 77) In discussing how equity health services can be attained, the nominee acknowledged the challenges that exist within the integrated health system. He, however, envisions the need for equitable health care is plausible through the following policies which are under implementation: - focus on the primary health care system; investment on community health workers who in the last year have assessed 4.6 million children under five years for various diseases, 4 million and 3 million for diabetes and high blood pressure respectively; ringfencing health funding for facility improvement through the enactment of the Facility Improvement Fund (FIF) Act 2023.
- 78) The candidate acknowledged the Committees' concern about the growing trend of self-medicating among the public. He linked the practice to inadequate and non-functional primary health care at the community level and as the first call of health services. He also stated that there is increasing mortality associated with antimicrobial resistance and committed to rationalizing its usage. He further added the need to fully implement the SHIF, which is expected to address gaps in access to healthcare and focus on primary and preventive care as opposed to curative. Further, SHIF will increase access to health care as it will minimize the need for out-of-pocket expenditure, which is a significant driver of self-medication.

CHAPTER FOUR

4. COMMITTEE OBSERVATIONS AND RECOMMENDATIONS

4.1. Committee Observations

79) Following committee deliberations and analysis of the submissions and representations received on the suitability of the candidate for appointment to the position of Director General for Health, the Committees **observes** that-

- a. Whereas the Committees considered all submitted memoranda, section 6 (9) of the Public Appointments (Parliamentary Approval) Act, (Cap. 7F) requires interested members of the public to submit any representations, by written statements on oath. However, only one memorandum fulfilled this requirement;
- b. The issues raised in the three memoranda had been satisfactorily responded to by the candidate and that they did not amount to disqualification of the candidate for appointment to the position of Director General for Health. However, informed by the concerns raised in the submissions received, the Ministry of Health ought to undertake adequate, purposive and meaningful public participation and stakeholder engagement as provided for in Article 10 and 232 of the Constitution to ensure that there is balanced and adequate representation and input of the divergent views of all stakeholders in the health sector in the development of policies and guidelines by the Ministry of Health.
- c. Dr. Patrick Omwanda Amoth, EBS, demonstrated the requisite knowledge and experience to perform the functions of the Director-General for Health having satisfactorily performed in an acting capacity for four (4) years. He further met all legal and constitutional requirements to perform the functions of Director-General for Health.
- d. Dr. Amoth further complied with and met all the statutory and constitutional requirements in relation to the holder of the Office of the to perform the functions of Director- General for Health.


4.2. Committee Recommendation

80) The Committees having considered the suitability, competence, experience and integrity of Dr. Amoth following the approval process, and taking into account its observations and findings, and pursuant to the Provisions of the Constitution, Public Appointments (Parliamentary Approval) Act, (Cap. 7F), the Health Act, (Cap.241) the National Assembly Standing Orders and the Senate Standing Orders, recommend that Parliament **approves** the nomination of Dr. Patrick Omwanda Amoth, EBS for appointment as the Director General for Health under Section 16 of the Health Act, (Cap. 241).




SIGN: DATE: 30/07/2024

Hon. (Dr.) ROBERT PUKOSE, CBS, MP
CHAIRPERSON, NATIONAL ASSEMBLY, DEPARTMENTAL
COMMITTEE ON HEALTH,



SIGN: DATE: 30/07/2024

Sen. JACKSON K. MANDAGO, EGH, MP
CHAIRPERSON, SENATE STANDING COMMITTEE ON HEALTH

 THE NATIONAL ASSEMBLY PAPERS LAID	
DATE: <u>31 JUL 2024</u>	DAY: <u>WEDNESDAY</u>
TABLED BY:	<u>CO-CHAIRPERSON, COMMITTEE ON APPROVAL OF DIRECTOR-GENERAL HEALTH</u>
CLERK AT THE TABLE:	<u>TRACEY CHERET</u>

