

REPUBLIC OF KENYA
COUNTY GOVERNMENT OF MACHAKOS
COUNTY ASSEMBLY OF MACHAKOS



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THIRD ASSEMBLY
(THIRD SESSION)

COMMITTEE ON APPOINTMENTS

THE EIGHTH REPORT OF THE COMMITTEE ON APPOINTMENTS OF
THE THIRD ASSEMBLY ON THE VETTING OF NOMINEE FOR
APPOINTMENT TO THE POSITION OF COUNTY EXECUTIVE
COMMITTEE MEMBER - HEALTH

NOVEMBER, 2024

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LIST OF ABBREVIATIONS AND ACRONYMS

CEC	County Executive Committee
CO	Chief Officer
CRB	Credit Reference Bureau
CUE	Commission for University Education
CV	Curriculum Vitae
DCI	Directorate of Criminal Investigations
EACC	Ethics and Anti-Corruption Commission
FIF	Facilities Improvement Financing
HELB	Higher Education Loans Board
ICT	Information Communication Technology
KNEP	Kenya National Equipment Project
KEMSA	Kenya Medical Supplies Authority
KMPDU	Kenya Medical Practitioners and Dentists Union
MES	Managed Equipment Services
SHA	Social Health Authority
SHIF	Social Health Insurance Fund

FOREWORD

Pursuant to Article 179(2)(b) of the Constitution as read with Section 30(2)(d) of the County Governments Act 2012, Her Excellency, the Governor of Machakos County nominated Mr. Justus Musau Kasivu for appointment to the position of County Executive Committee Member for Health. Notification of the nomination was conveyed to the Speaker of the County Assembly through a letter Ref. GMC/2/OOG/VOL.1/15 dated 11th October, 2024 (Annexure 1).

Pursuant to Standing Order 39(2), the Speaker of the County Assembly, transmitted the message from Her Excellency the Governor, Machakos County to members of the Assembly on Monday, 4th November, 2024 and further communicated the same to the House on Tuesday, 12th November, 2024 when the House resumed its regular sittings. Further, pursuant to Section 7(1) of the Public Appointments (County Assemblies Approval) Act, 2017 and Standing Orders 39(3)(c) and 184(4), the name of the nominee was committed to the Committee on Appointments for approval hearings and reporting to the House within twenty-one days.

Consequently, and in accordance with Article 196(1) of the Constitution, Section 7(5) and (10) of the Public Appointments (County Assemblies Approval) Act, 2017 and Standing Order 42(5) and (6), the Clerk of the County Assembly placed an advertisement in the print media on Tuesday, 5th November, 2024 inviting the public to attend the approval hearings and/or submit any information or comments on suitability or otherwise for appointment of the nominee by Monday, 11th November, 2024 at 5.00 p.m. The submissions were to be by way of sworn affidavits and hand delivered to the Office of the Clerk of the Assembly or scanned and sent to info@machakosassembly.go.ke.

By close of the submission deadline, the committee had not received any memoranda concerning the suitability or otherwise of the nominee for appointment. In the same advertisement, the Clerk of the County Assembly notified the nominee that the Committee on Appointments would conduct the approval hearing on Wednesday, 13th November, 2024 at 8.30 a.m. in the Assembly Chambers.

The nominee appeared before the Committee as scheduled for approval hearing in accordance with the Constitution, County Governments Act, Public Appointments (County Assemblies Approval) Act, 2017 and the County Assembly of Machakos Standing Orders.

Pursuant to Section 7(8) and (9) and Section 8 of the Public Appointments (County Assemblies Approval) Act, 2017, the Committee observed that the nominee met the requirements of Chapter Six of the Constitution, demonstrated knowledge on his roles, understood composition and

functions of the CECM and had the requisite qualifications.

The nominee, Mr. Justus Musau Kasivu, scored above the pass mark of 60 per cent set by the Committee to be approved for appointment as County Executive Committee Member for Health.

Having conducted the approval hearing for the nominee pursuant to Article 179(2)(b) of the Constitution as read with Section 30(2)(d) of the County Governments Act 2012, Sections 4 and 9 of the Public Appointments (County Assemblies Approval) Act, 2017 and Standing Order 184(4), the Committee recommends that the House approves the nomination of Mr. Justus Musau Kasivu for appointment as County Executive Committee Member for Health by Her Excellency, the Governor of Machakos County.

The Committee is thankful to the Offices of the Speaker and the Clerk of the County Assembly for the support accorded to it during the accomplishment of this duty. I wish to express my appreciation to the Honorable Members of the Committee for their dedication and participation in this exercise.

On behalf of the Committee on Appointments and pursuant to Section 14(3)(b) of the County Governments Act, Section 9(1) of the Public Appointments (County Assemblies Approval) Act, 2017 and Standing Order 179(6), it is now my duty and privilege to present to the House, the eighth report of the Committee on Appointments on the Approval hearing of the nominee to the position of County Executive Committee Member for Health by Her Excellency, the Governor of Machakos County.

SIGN.....

DATE18.11.2024.....

HON. ANNE KIUSYA

SPEAKER OF THE COUNTY ASSEMBLY / CHAIRPERSON, COMMITTEE ON APPOINTMENTS

1.0 PREFACE

1.1 Establishment and Mandate of the Committee

1. Section 14(3)(a) of the County Governments Act, 2012 provides that, when the Assembly is considering any appointment for which its approval is required under the Constitution, an Act of Parliament or county legislation, the appointment shall be considered first by a committee of the county assembly.
2. The establishment and mandate of the Committee on Appointments is provided for under Standing Order 184.

1.2 Committee Membership

3. The Committee on Appointments as constituted by the House comprises of the following Honorable Members:

1. Hon. Anne Kiusya - Speaker of County Assembly/Chairperson
2. Hon. Stephen Mwanthi - Deputy Speaker / MCA, Ekalakala Ward
3. Hon. Nicholas Nzioka - Leader of Majority Party /Machakos Central Ward
4. Hon. Judas Mbili Ndawa - Leader of Minority Party / MCA, Matuu Ward
5. Hon. Jackson Ndaka - Deputy Leader of Majority Party/MCA, Tala Ward
6. Hon. Francis Kavyu - Deputy Leader of Minority Party/MCA, Kinanie Ward
7. Hon. John Brian Kisila - MCA, Makuatano/Mwala Ward
8. Hon. Winfred Mutua - MCA, Special Elect
9. Hon. Francis Kitaka - MCA, Ndalani Ward
10. Hon. Peter Kilonzo - MCA, Mbiuni Ward

1.3 Committee Secretariat

4. The Committee was facilitated by the following secretariat:

1. Mr. Denis Mutui - Ag. Clerk
2. Mr. Hilary Muthui - HOD, Legal and Library
3. Mr. Dominic Musyoka - HOD, Procedure and Committee Services
4. Mr. Paul Keli - Senior Records Management Officer
5. Mr. Wanyoike Njuguna - Hansard Editor
6. Ms. Susan Kiluva - Clerk Assistant II
7. Mr. Harrison Mulonzi - Clerk Assistant II
8. Ms. Mercy Ndambuki - Clerk Assistant II
9. Mr. Lewis Muoki - Research Officer
10. Mr. Jonathan Muli - Commissionaire III

2.0 BACKGROUND

2.1 Notification of Nominations

5. Pursuant to Article 179(2)(b) of the Constitution as read with Section 30(2)(d) of the County Governments Act 2012 and Sections 4 and 6 of the Public Appointments (County Assemblies Approval) Act, 2017, Her Excellency, the Governor of Machakos County forwarded to the Speaker of the County Assembly vide letter Ref. GMC/2/OOG/VOL.1/15 dated 11th October, 2024 (Annexure 1), the name of Mr. Justus Musau Kasivu for vetting and approval for appointment as County Executive Committee Member for Health.

2.2 Notification to the House and committal to the Committee on Appointments

6. Pursuant to Standing Order 39(2), the Speaker of the County Assembly, transmitted the message from Her Excellency the Governor, Machakos County to members of the Assembly on Monday, 4th November, 2024 and further communicated the same to the House on Tuesday, 12th November, 2024 when the House resumed its regular sittings. Further, pursuant to Section 7(1) of the Public Appointments (County Assemblies Approval) Act, 2017 and Standing Orders 39(3)(c) and 184(4), the name of the nominee was committed to the Committee on Appointments for approval hearing and reporting to the House within twenty one days.

2.3 Notification to the Public

7. Article 196(1) of the Constitution provides that a county assembly shall:
 - (a) *Conduct its business in an open manner, and hold its sittings and those of its committees, in public; and*
 - (b) *Facilitate public participation and involvement in the legislative and other business of the assembly and its committees.*
8. Section 7(5) of the Public Appointments (County Assemblies Approval) Act, 2017 provides that the committee shall, by notice in at least one newspaper of national circulation, notify the public of the time and place for holding an approval hearing at least seven days prior to the hearing. Further, Section 7(10) of the same Act provides that any person may, prior to the approval hearing, and by written statement on oath, provide the Clerk of the County Assembly with evidence contesting the suitability of a candidate to hold the office to which the candidate has been nominated.
9. Pursuant to Article 196(1) of the Constitution, Section 7(5) and (10) of the Public Appointments (County Assemblies Approval) Act, 2017 and Standing Order 42(5) and (6), the Clerk of the County Assembly placed an advertisement in the print media on Tuesday

5th November, 2024 (**Annexure 2**) inviting the public to attend the approval hearing and/or submit any information or comments on suitability or otherwise for appointment of the nominee. The submissions were to be by way of sworn affidavits and hand delivered to the Office of the Clerk of the Assembly or scanned and sent to info@machakosassembly.go.ke. by Monday, 11th November, 2024 at 5.00 p.m. In the same advertisement, the Clerk of the County Assembly notified members of the public that the Committee on Appointments would conduct the approval hearings on Wednesday, 13th November, 2024 at 8.30 a.m. at the County Assembly Chambers along Mwatu wa Ngoma road.

2.4 Notification to the Nominee

10. On Tuesday, 5th November, 2024, the Clerk of the County Assembly invited the nominee in writing and through print media, for the approval hearing in accordance with Section 6(4) of the Public Appointments (County Assemblies Approval) Act, 2017.

2.5 Clearance and Compliance Requirements

11. Pursuant to Section 8(b) of Public Appointments (County Assemblies Approval) Act, 2017 as read with Section 35(3) of the County Governments Act and Section 4(2) and (4) and Section 44(2) of the Leadership and Integrity Act 2012, the Committee requested various institutions to undertake verification of the information provided by the nominee as follows (**Annexure 3**):

- (i) Ethics and Anti-Corruption Commission (EACC) via letter Ref. MKSCA/ADM/VETT/VOL.3/26 dated 5th November, 2024 for verification on compliance with Chapter Six of the Constitution.
- (ii) The University of Nairobi via letter Ref. MKSCA/ADM/VETT/VOL.3/27 dated 5th November, 2024 for verification of Bachelor of Commerce (Marketing) degree certificate.
- (iii) St. Paul's University via a letter Ref. MKSCA/ADM/VETT/VOL.3/28 dated 5th November, 2024 for verification of Master of Business Administration (Strategic Management) degree certificate.

2.6 Issues for Consideration during the Approval Hearings

12. Section 7(8) and (9) of the Public Appointments (County Assemblies Approval) Act, 2017 provides that:

(8) An approval hearing shall focus on a candidate's academic credentials, professional training and experience, personal integrity and background.

(9) The criteria specified in the First Schedule and the assessment form specified in the

Second Schedule shall be used by a committee during an approval hearing for the purposes of vetting a candidate.

13. Further, Section 8 of the Public Appointments (County Assemblies Approval) Act, 2017 provides that the issues for consideration by the relevant County Assembly in relation to any nomination shall be:

- (a) The procedure used to arrive at the nominee including the criteria for the short listing of the nominees;*
- (b) Any constitutional or statutory requirements relating to the office in question; and*
- (c) The suitability of the nominee for the appointment proposed having regard to whether the nominee's credentials, abilities, experience and qualities meet the needs of the body to which the nomination is being made.*

14. During the approval hearings, the Committee was guided by the provisions of Section 7(8) and (9) and Section 8 of the Public Appointments (County Assemblies Approval) Act, 2017.

2.6.1 Procedure for Nomination

15. Section 6(1) of the Public Appointments (County Assemblies Approval) Act, 2017 requires the appointing authority, upon nominating a person for appointment, to notify the relevant County Assembly accordingly. In this regard, pursuant to Article 179(2) of the Constitution, Section 30(2)(d) of the County Governments Act, 2012 and Section 6(1) of the Public Appointments (County Assemblies Approval) Act, 2017, the Governor of Machakos County, notified the Assembly of the nomination of Mr. Justus Musau Kasivu for appointment to the position of County Executive Committee Member for Health following the resignation of Hon. Dr. Daniel Yumbya from the same docket.

2.6.2 Constitutional and Statutory Requirements

16. The Constitution and the County Governments Act provides for guidelines on how to appoint persons to public office. The committee in determining suitability of the nominee was guided by the provisions on leadership and integrity as outlined under Chapter Six of the Constitution and Section 35 of the County Governments Act, 2012

2.6.3 Suitability of the nominee to the docket to which the nomination is being made

17. The suitability of the nominee was assessed after scrutiny of the nominees' academic credentials, professional training and experience, personal integrity, background and

qualities as well as his performance during the approval hearings conducted on Wednesday, 13th November, 2024.

2.7 Consideration of memoranda from Members of the Public

18. Section 7(10) of the Public Appointments (County Assemblies Approval) Act, 2017 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.”*
19. Accordingly, the Clerk of the County Assembly placed an advertisement in the print media on Tuesday 5th November, 2024 (**Annexure 2**) inviting the public to submit any information or comments on suitability or otherwise of the nominee in conformity with Section 7(10) of the Public Appointments (County Assemblies Approval) Act, 2017. By Monday, 11th November, 2024, which was the deadline of submission, the County Assembly had not received any sworn statements contesting his suitability.

3.0 APPROVAL HEARING

20. The Committee held sittings on 4th and 11th November, 2024 to deliberate, analyze and scrutinize the nominee's credentials and certificates and noted the following:

- (i) **THAT**, it will conduct the approval hearing as per the criteria set out in Section 7(9) of the Public Appointments (County Assemblies Approval) Act, 2017.
- (ii) **THAT**, it will use the assessment form provided in the Second Schedule of the Public Appointments (County Assemblies Approval) Act, 2017 and that the pass mark would be 60 percent.
- (iii) **THAT**, the approval hearing will proceed as advertised on Wednesday, November 13th, 2024 and will be open to the public in line with the provisions of Article 196(1) (a) and (b) of the Constitution.

21. The approval hearing proceeded as scheduled.

3.1 APPROVAL HEARING OF MR. JUSTUS MUSAU KASIVU, NOMINEE FOR THE POSITION OF CECM, HEALTH

22. The nominee appeared before the Committee on Wednesday, 13th November, 2024 at 9.00 a.m. and was vetted under oath pursuant to the Constitution, County Governments Act, Public Appointments (County Assemblies Approval) Act No. 5 of 2017 and the Standing Orders of the County Assembly. The Committee noted the following:

Citizenship and place of birth

23. The nominee is a Kenyan citizen born in Mwala, Machakos County.

Academic and Professional Qualification

24. The nominee possesses a Bachelor of Commerce degree from the University of Nairobi acquired in 2000 and a Master of Business Administration from St. Paul's University acquired in 2020 as confirmed vide letter from the Deputy Registrar, Academics dated 12th November, 2024.

Employment record and professional Experience

25. The nominee has served as a Chief Officer, County Government of Machakos from 2018 to date. He was previously the General Manager Sales at Keroche Breweries from 2015 to 2017, Regional Business Manager Airtel Kenya from 2011 to 2015, Regional Head Essar Telecom in 2011, National Sales and Export Manager for New KCC Ltd 2008 to 2011, Sales Manager Spin Knit Dairy Ltd from 2004 to 2008, Territory Sales Manager from 2003 to 2004 and sales Representative Bidco Oil Refineries from 2001 to 2002.

Income and Net worth

26. The nominee's net worth is Kenya Shillings Eighty Five Million.

Professional Associations and Membership

27. The Nominee did not declare membership to any professional association.

Published Works

28. The nominee does not have any published works.

Potential conflict of interest

29. The nominee did not indicate any potential conflict of interest.

Honors and Awards

30. The nominee did not indicate have any Honors and Awards.

Pro-Bono / Charity Work / Donations

31. The nominee stated that he supports a church and educates less fortunate kids (Kshs. 250,000 p.a.)

Integrity

32. The nominee stated that he has neither been charged in a court of law nor adversely mentioned in any investigatory reports of Parliament or any Commission of Inquiry. He submitted the following clearance certificates:

- i. Tax Compliance Certificate – valid until 13th October, 2025.
- ii. HELB compliance certificate –indicating the candidate has fulfilled his obligations valid until 14th October, 2025.
- iii. Credit Reference Bureau Certificate of clearance – dated 15th October, 2024.
- iv. EACC Self declaration form – dated 14th October, 2024.
- v. Police Clearance Certificate Receipt – dated 14th October, 2024.

3.2 General and Sector Specific Questions to the Nominee

Educational Background and experience and how they relate to the portfolio

33. Asked how his educational background in commerce and strategic management coupled with his work experience relate to the portfolio for which he has been nominated, the nominee responded that he understands his role will be more of leadership and strategic management and as mentioned in his CV, he has worked for the last 24 years, 15 of which has been in top management in both private, public and in the corporate world. He added that this has equipped him with a lot of experience and skills to develop strategic policies. He also stated that he has

been involved in performance contract management throughout his career. He further stated that based on this, he will be able to offer strategic advice vertically to the Governor and to the County Assembly and horizontally to his colleagues and peers across departments.

Operational Lessons Learned as Chief Officer

34. Asked what operational lessons he had learned having served as Chief Officer in the County Government since 2018, the nominee said he has learned that to be successful one has to be a strategic leader, offering the right management and guidance and this can only happen through proper communication within the department and also outside the department. He also stated that collaboration between the department and stakeholders' including the Assembly is important. The nominee further said that proper public participation ensures project prioritization public requirements.

Challenges related to drugs and medical supplies

35. Asked about the challenges faced in the supply of drugs to medical facilities, the nominee cited budgetary challenges saying that the department had requested for Ksh. 850 million for this financial year but this was not availed due to budgetary constraints. He further stated that sometimes the Exchequer and the Controller of Budget take too long to approve the release of funds to ensure timely procurement. To address this, the nominee said that he will engage the Executive and the Assembly for more budget allocation.
36. The nominee went further to state that, the recently approved Facilities Improvement Financing Act, 2023 will help mitigate the issues of drug shortage. He also said that the Kenya Medical Supplies Authority (KEMSA) supplies are done on quarterly basis and at times only 60 to 70 percent is supplied. He stated that, if appointed, he will advise that the County Government engages the manufacturers and other pharmaceutical organizations directly and probably brand the drugs to avoid theft.

Frequent Strikes by Medical Staff

37. Asked why there were frequent strikes by medical staff and the approach he will take to solve this if appointed, the nominee admitted that there was an ongoing strike by doctors and said that he will engage the union leadership and involve all the stakeholders including the County Public Service Board, the Office of the County Secretary, the County Assembly and even the Governor to help unlock the situation.

38. The nominee stated that the issues raised by the doctors were genuine and he gave an example of the car loans and mortgage scheme as promised by the National Government. To address this, he stated that the County Government had initiated a check-off system with banks and the doctors and any other staff were free to approach the banks and apply for loans. On the issue of insurance cover, the nominee confirmed that the County had insurance cover under Jubilee Insurance for all the staff, doctors included. He further added that about 19 doctors whose contracts had expired in July, 2024 had since been resolved by engaging them on permanent and pensionable terms.
39. The nominee stated that the outstanding matter was on promotions. He noted that the current County Government wage bill stood at over 40 per cent against the statutory requirement of 35 per cent and that there was no budget for promotion of doctors and the County Executive was working on the matter.

Enactment of the Facilities Improvement Financing Act, 2023

40. Asked about the future of health services in the County with the recent enactment of the Facilities Improvement Financing Act, 2023 (FIF), the nominee stated that the future of health services was bright. He stated that with the new provisions, health facilities will be able to collect revenue and spend at source. He added that with the FIF, health facilities will be able to purchase drugs that were out of stock and even get doctors on locum. He further stated that, it was expected that health workers will be motivated since they will have solutions to challenges of supplies and equipment within their reach and without the bureaucracy of the Exchequer.
41. For controls, the nominee said that , the use of funds at the health facilities will require authority to incur expenditure from the Chief Officers and that Hospital Committees and Boards will conduct oversight on the facilities on the use of the monies. He also said that internal and external auditors will ensure that there is proper use of the funds.

Status of Managed Equipment Services

42. The nominee stated that Machakos Level V, Kangundo level IV, and Mwala level IV Hospitals benefited by having theatre equipment provided by the Ministry of Health, which got into a leasing deal with vendors who supplied the equipment and serviced them. He stated that the equipment was brought in 2015 and the lease arrangement was for seven years, which then expired in June 2022, with a one-year extension expiring in June 2023, and that there has been no contract since then. He also informed the committee that a new project referred to the Kenya

National Equipment Project (KNEP) was in the pipeline and was slightly different from MES and will address the current issues because it was voluntary, with the department only giving out what they need, as opposed to MES.

Management of health services surrounding Social Health Authority (SHA) and Social Health Insurance Fund (SHIF)

43. Asked about the services of SHA and SHIF, the nominee informed the committee that SHA has three components; the first component being the primary healthcare fund at Level II and Level III hospitals, the second component being SHIF and the third component being emergency, chronic and critical illness fund. He remarked that the County government will do everything possible to encourage Machakos residents to register for SHA because its benefits outweigh those of the NHIF. He further mentioned standardization as one of its benefits, citing an example of expectant mothers who previously only received Linda Mama services for Ksh. 2,500, but now with SHA, they can go to any facility such as Kenyatta National Hospital, Aga Khan, Itunduimuni, Kalama, and others and receive the same services at Ksh. 10,500.

County Government Ambulances Service

44. Asked if the current ambulance arrangement was working, the nominee affirmed the same and stated that there was a command center where people could call and that the department of Health and that of Inspectorate and Emergency Services practice cooperation and teamwork. In addition, the nominee stated that, the Emergency Medical technicians (EMT) were seconded from the health department, showing a good sign of synergy.

Obligation of the nominee to the County Assembly

45. Asked about his obligation to the County Assembly if appointed, the nominee stated that his first duty would be to recognize that the Assembly was a significant and important stakeholder in all departmental operations and that he will be available if called upon for any discussion or clarification even at short notice. He said that if appointed he will make sure that any information or documentation that the Assembly required was provided accurately and on time.

Chapter six of the Constitution and Integrity

46. Asked on integrity and Chapter six of the Constitution, the nominee responded that he had no integrity issues and that Chapter six of the Constitution emphasizes on leadership and integrity

3.3 Committee Observations on the Suitability of the Nominee

47. The Committee, having considered the nominee's filled questionnaire pursuant to Section 7(9) of the Public Appointments (County Assemblies Approval) Act, 2017, his curriculum vitae

and having heard oral submissions during the approval hearing, observed that the nominee is a Kenyan citizen, has the requisite education, possesses relevant knowledge and experience as provided under Section 35(3) of the County Governments Act, 2012 and satisfies requirements of Chapter Six of the Constitution. The nominee attained average mark of 92 per cent.

48. Based on the above the nominee was assessed and awarded marks as per the table below:

Awarding of Marks on the Assessment Form by the Assessors:

Particulars	Work experience (as it relates to the position)	Education/ training (relevant to the position)	Interest in and knowledge relating to specific position	Communication skills (written/ oral)	Presentation (promptness, neatness of resume/ application, appearance)	Decision making/ problem solving skills	Total
Marks Available	25	25	15	10	10	15	100
Mean Mark	23.5	22.6	14.38	9.25	9.25	13.25	92.5

The nominee met the set pass mark.

4.0 COMMITTEE RECOMMENDATIONS

49. Having conducted the approval hearing for the nominee pursuant to Article 179(2)(b) of the Constitution as read with Section 35 of the County Governments and Section 9(1) of the Public Appointments (County Assemblies Approval) Act, 2017, the Committee recommends that the House approves the nomination of Mr. Justus Musau Kasivu for appointment as County Executive Committee Member, Health by Her Excellency, the Governor of Machakos County.

SIGN.....

DATE18.11.2024

HON. ANNE KIUSYA
SPEAKER OF THE COUNTY ASSEMBLY / CHAIRPERSON, COMMITTEE ON APPOINTMENTS