

The Contemptible State of the Health Sector in Nigeria: the Efficacy of the National Health Act 2014 in Addressing Issues in the Health Sector

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ABSTRACT

It can be stated without much ado that the state and condition of the health sector in Nigeria is one which truly leaves more to be desired. What even continues to resonate in light of this fact is the minimal efforts channeled towards the reversal of this, a situation which ought to be one of maximum concern. The paper strongly avers that the situation in the health care sector in Nigeria is one which is nothing short of contemptible, despicable and appalling. Law, in light of its functions in modern day society, remains a kinetic force which pulls everything within its radar along the line of progression and this paper posits that once again this role of law is to be played in this pertinent sector of life. To relegate the issue of health care to the background is to invariably threaten the existence of life itself, therefore such an issue must be given priority amidst other concerns that plague our human existence. This paper aims to bring to fore the problems being faced by the health sector and go further to examine the adequacy of the National Health Act 2014 in changing the current situation by analyzing the provisions of this Act. The paper recommends the full implementation and enforcement of the National Health Act in an attempt to improve the state of health care in Nigeria.

Keywords: Healthcare, Law, Nigeria, Sector, Contemptible,

Introduction

The demand for health care can be likened to the demand for any basic commodity required for the survival and existence of mankind. The most distinguishing characteristic of an individual's demand for medical services is that it is irregular and unpredictable. Medical services, apart from their preventive services, afford satisfaction only in the event of illness, a departure from normal state of affairs. Rightly put, medical care is another indispensable and primary need of man in his effort to live and conserve his life. The natural wear and tear of man's feeble body requires adequate medical care to sustain it. By virtue of this right of medical care, the doctor is bound to render his services to the members of the community in the spirit of justice and honesty. No one patient's life should be discriminated or preferred to another.

By virtue of *Section 17(1) (c) Constitution of the Federal Republic of Nigeria, 1999 (as amended)*, the state shall be in charge of the health, safety and welfare of all persons. However, the ineffectiveness of this sector has resulted in the active involvement of private individuals in the health care sector as opposed to laissez faire control in the hands of the government. This has birthed consequences that have been both advantageous alongside detrimental.

This paper discusses primarily, the scope of the health care sector, the setbacks of the sector bringing to fore the state of public health care in Nigeria. Furthermore, this article considers an analysis of the laws regulating the healthcare sector in Nigeria, the starting point of such analysis tracing from the National Health Act 2014^[1] which was passed into law as a regulatory framework for the health sector nearly a decade after the introduction of the National Health Bill in 2004.

The paper also recommends measures that can be taken to reverse the current state of affairs within the health care sector which includes the proper implementation of the NHA 2014 and increased budgetary allocation to the health sector.

Salient Issues Plaguing the Nigerian Health Sector

Ineptitude of Medical Practitioners

The role of the medical practitioner in a society cannot be overemphasized, he is entrusted with a lot of responsibilities, in the discharge of which a very high standard of care and diligence is expected. This is because unlike other professionals, medical practitioners deal with human life which once lost, cannot be regained. However, patients often complain of the negative attitude of healthcare workers ranging from negligence to tardiness, misdiagnosis and even unprofessionalism. These has over the years resulted in deaths which could have been avoided or the loss of a patient's body parts or vital organs.

For the purpose of bringing to fore the state of the Nigeria Health Sector, reported stories about several experiences of people who found themselves at the mercy of inept, incompetent medical individuals is recanted. The first story featured here is that of Obinna Oleh reported in a recent Premium Times publication.^[2] Obinna's late sister was an addition to the long list of unfortunate victims who have been on the receiving end of medical negligence and incompetence in the Nigerian Health Sector. Obinna's sister had just bled to death after giving birth to a set of triplets, her death was caused by excessive bleeding after being delayed by the hospital for several hours even though it was an emergency. He stated "I lost my sister due to their negligence and mistreatment and I am blaming the staff and management of the hospital entirely because if you cannot treat a patient on emergency without money at hand at a government hospital, then why are we Nigerians?"^[3]

Alongside this incident is several cases of misdiagnosis received at the hands of Nigerian Medical Practitioners who are supposed to be qualified in their training and fit for their occupation. A story was reported by PM Nigeria News of a female journalist who lost her brother and traced the loss of her brother to "inconclusive diagnosis" by doctors. Her brother was a sickle cell patient who had suffered from this medical condition for a while and was able to manage it with proper assistance. Before his unfortunate death, he had witnessed further troubles to his medical condition and had sought assistance at various hospitals all of which gave various dissimilar diagnosis for his condition. All of these false and misconstrued diagnosis culminated in his death eventually.^[4]

These stories are just a few among the several ones told by people who have fallen victim to the ineptitude of health workers in Nigeria. However, when looked at, this problem can be attributed to the inadequate human resources and facilities which is characteristic of the health sector in Nigeria. Doctors are as much human as any of us and when they are burdened with more than they can handle, they tend to make mistakes or work under pressure and the resulting effects are the sorry cases like those explained above.

Inadequate Manpower Resources and Facilities

Compared with Nigeria's population, the country lacks sufficient professional hands to provide health services. The ratio of doctors to patients in Nigeria is about eight times below the World Health Organisation (WHO)'s recommendation of "one doctor to 600 patients."^[5] The available ones are faced with heavy workloads and poor remuneration and have to work in facilities that are lacking and incapable of supporting 100% effective service delivery.

During a press briefing held at the Abuja office of the Nigerian Medical Association, the president of the NMA, Dr. Francis Faduyile had this to say:

"We don't have enough personnel; we don't have enough equipment and the government does not have enough health facilities."^[6]

This is one major issue that has plagued the health care sector for a long time now and a huge contributing factor to poor health care delivery in Nigeria and sadly so, it is still an issue. The hospitals lack equipment, some that are available are obsolete and no longer in use.

• Inadequate Funding

The World Health Organisation (WHO) Global Health Expenditure 2019 has shown that Nigerian Government spends less on health than most other governments around the world.^[7] The inadequate allocation of funds to the health sector in the federal government's budget is mostly responsible for the deteriorating state of the health sector in Nigeria today. It is confirmed by the Federal Ministry of Health that though this is true of the federal government, the states and local government spend even far less on health. The National Health Act represents the first attempt to provide legislative clarification and funding sources to support Primary Health Care but it is sad that even with the enactment of the Act, Nigeria is not where it needs to be with the issue of funding the health sector.

Brain- Drain

There are over 72,000 doctors registered with the Medical and Dental Council of Nigeria and over half practice outside the country.^[8] A doctor in Nigeria earns an average of N200,000 monthly necessitating their emigrating to countries where they can be better paid for their services. In a research conducted by NOI Polls, it was reported that nine in every 10 doctors are considering work opportunities outside Nigeria and it is projected that this will keep rising.^[9] Reasons for this massive emigration include an improved quality of life, higher salaries, career progression and more conducive work environment amongst others.

These situations among others decries how deeply plunged in ineffectuality the Nigerian Health Sector is. This is despite the existence of the National Health Act which ought to provide a framework for the regulation, management and development of Nigeria’s Health System.

Regulatory Framework of the Healthcare Sector the National Health Act 2014

The enactment of the National Health Act is a relatively recent phenomenon seeing how from the time of the introduction of the *National Health Bill* which led to the promulgation of the Act, it took nearly a decade before the bill was signed into law on October 31 2014.[\[10\]](#) With a significant course of action as this, Nigeria after 50 years now had included in its corpus of law a legislation which addressed some of the salient problems within the Nigerian Health care sector. This had the impact of establishing a legal framework which would constitute a guide for the regulation, development and management of National Health System in Nigeria and also the Act sets standards for rendering of legal services in Nigeria and for related matters.

Background to the establishment of the Act

The need for the enactment of the National Health Act arose from the gaping lacuna in the Constitution of the Federal Republic of Nigeria 1999 (as amended) which failed to provide a legal framework for health care delivery in Nigeria. The National Health Bill was first proposed in 2004 during the time of Eytayo Lambo as minister of health.[\[11\]](#) However, as earlier mentioned, it took an entire decade of consideration before it was eventually passed and signed into law by former President Goodluck Jonathan on October 31, 2014.[\[12\]](#) The Act is comprised of seven parts which have constituent sectors within them that address prevalent issues and is capable of positively impacting health care access, universal health coverage, health care cost, quality standards, practice by health care providers, as well as patient care and health outcomes. The seven parts of the NHA are as follows:

Part I – Responsibility for health and eligibility for health services and establishment of National Health System (section 1- 11)

This part of the Act details the structural flow of authority and responsibility within the National Health System. The National Health System ranges from the highest body in the health sector; the Federal Ministry of Health to the least – traditional health providers. It provides and defines a framework for standards and regulation of health services in both public and private providers of health services.

According to the incipient Section of the Act, *“there is established for the Federation the National Health System, which shall define and provide a framework for standards and regulation of health services, without prejudice, to extant professional regulatory laws which shall-*

- *encompass public and private providers of health care in the society*
- *promote a spirit of co-operation and shared responsibility among all providers of healthcare in the Federation and any part thereof;*
- *provide for persons living in Nigeria the best possible health services within the limits of available resources;*
- *set out the rights and obligations of health care providers health workers, health establishments, and users and*
- *Protect, promote, and fulfill the rights of the people of Nigeria to have access to health care services.”*

Having come to the realization that the demand for healthcare is higher at the grass root level with over 70% of our people accessing care at the primary level, the concluding section of part 1 of the NHA provides for the establishment of the Basic Health Care Provision Fund(BHPF) of at least 1% of the consolidated Revenue Fund at the Federal level, with counterpart funds from both the States and Local Governments. This Fund is to be applied to the development of health care, infrastructure, provision of equipment, medication and the development of human resource at the Primary Health Care level.[\[13\]](#) Enabling access to quality healthcare at this level will really boost health care outcomes naturally, especially among the poor and vulnerable. Fifty percent of the Fund is expected to be managed by the National Health Insurance Scheme (NHIS) for the provision of basic health insurance for the vulnerable in our society.[\[14\]](#)

Part II- Health Establishments and Technologies (Sections 12 -19)

The minister is empowered in this part to classify health establishments, regulate and coordinate their activities as well as the relationship between private and public health establishments in the delivery of health services.

A notable provision in this part of the Act which brought about a lot of agitations over non implementation of the Act is Section 13 and 14 which makes it an offence for any health establishment, health agency or technology to operate without a certificate of standard 24 months after the date the act took effect. Going by this, it would then mean that virtually all hospitals and other health establishments in the country are operating illegally because it is well over 24 months since the enactment of the Act and no certificate of standard has been issued to any of them as prescribed by the Act. The concluding section in this part directs all health establishments to comply with the quality requirements and standards prescribed by the National Council on Health relating to human resources, health technology, equipment hygiene, premises, delivery of health services, business practices safety and the manner in which users are accommodated and treated.[\[15\]](#)

Part III- Rights and Obligations of Users and Healthcare personnel

In a society where health care providers are constantly accused of recklessness and being too money conscious, this part of the Act vests certain rights on users and the healthcare personnel.

The first part makes it mandatory for a health care provider, worker or establishment to provide emergency medical treatment to anyone who needs it. Refusing a person emergency medical treatment is now by virtue of the Act, an offence punishable by imprisonment not exceeding six months, a fine of #100,000 or both. A user is also entitled to full disclosure of relevant information pertaining to his state of health to him[\[16\]](#) and such information is to be kept confidential unless with the consent of the user, by a court order or law. By virtue of Section 30, a person may lay a complaint about the manner in which he or she was treated at a health establishment and have the complaint investigated. This provision if properly implemented would serve as a check on the work attitude of health care providers and reduce cases of rude or unprofessional health care delivery.

The Act not only protects users, it also seeks to indemnify healthcare personnel and officers against any liability incurred by him in defending any criminal or civil proceeding in which judgement was given in his favor.

Part IV – National Health Research and Information System[\[17\]](#)

This part details the establishment of a National Health Research Committee which is to reflect the federal character, a National Health Research Ethics Committee, the coordination of National Health Information system amongst others. This part provides for research, data and information collation and collection within the health sector. The minister shall establish the National Health Research Committee and its Ethics Committee with the responsibility to conduct research and experiment. The ministry of health shall create, facilitate and coordinate a comprehensive National Health Management Information System for collection of data and information of every health condition, treatments and procedures within any health establishment.[\[18\]](#) The Act also makes it compulsory for the minister to publish reports annually on the state of health of Nigerians. The concluding section in this part details how the National Council on Health should ensure the widest possible catchment for the National Health Insurance Scheme (NHIS) throughout the federation.[\[19\]](#)

Part V- Human Resources for Health[\[20\]](#)

This part of the Act details the development of policy and guidelines for the provision, distribution, management, development and utilization of human resources within the National Health System by the minister in concurrence with the National Council. Section 45 classifies health service as an essential service though recognizing the right of health professionals to demand for better conditions of service. On no account should an industrial dispute in the public sector of health cause total disruption of health services delivery in public institutions of health and where a disruption has occurred, the minister is to ensure that normalcy is obtained within 14 days of the occurrence.

Part VI – Control of Use of Blood, Blood Products, Tissue and Gametes, in Humans[\[21\]](#)

The Act empowers the minister to establish a National Blood transfusion service. It features the obligations of the National Blood Transfusion Service. It also regulates the removal of tissue, collection and prescription of blood, blood products, handling of vital tissues and organ transplant from living persons by stipulating rules, principles and sanctions guiding such processes and prohibits cloning of human kind.

Part VII- Regulations and Miscellaneous Provisions[\[22\]](#)

The concluding part of the Act cites powers of the minister to make any other necessary regulations, appoint committees, assign duties and delegate authorities

as the case may be except the power to make regulations which according to the Act is non-delegable. The minister is further empowered to establish the National Consultative Health Forum to promote and facilitate interaction, communication and the sharing of information on National Health Issues between representatives of the Federal Ministry of Health, national health organisations and state organisations.

Functionality of the National Health Act in Addressing Health Care Issues

Nigeria is quite popular for having some of the best policies on any given subject. However, the major challenge has always been the will to translate such policies into implementable platforms that will achieve the desired goal.^[23] Until certain steps are taken to ensure that the right policies and laws are not only put in place but also translated into actionable plans and procedures, Nigeria's quest to achieve a viable health sector even with the enactment of the National Health Act will continue to be a mirage.

A major hindrance to the viability of the health sector is the absence of adequate funding. Part 1 of the Act stipulates among other things, the establishment of a Basic Healthcare Provision Fund, with not less than one per cent of Consolidated Revenue Fund to be disbursed as follows: (a) 50 per cent Basic Minimum Health Package (NHIS); (b) 20 per cent Essential Drugs and Vaccines; (c) Five per cent Laboratory Equipment and Transport; (d) 10 per cent Human Resources and; (e) five per cent Emergencies.^[24] These funds as specified are yet to be duly appropriated in fulfillment of this provision though some attempts have been made. In 2018, N55 billion was appropriated for it but just about half the sum was released. It appropriated 51.5 billion for this in 2019.^[25] If this provision of the Act is implemented and the said funds duly appropriated, it will no doubt increase the public access to health as well as efficiency of healthcare providers in the country.

According to the *section 3* of this Act, vulnerable groups such as; women, children, older persons and persons with disabilities are eligible to receive free health care services but that is far from what obtains currently. What we have are programs like the Healthy Bee program organized by Lagos State which involves screening children for visual and hearing impairments, and other ailments that can negatively impact their capacity to study. These types of arrangements are, however, temporary and very limited. Despite decades of implementing Primary Health Care and enrolment of Nigerians into the National Health Insurance Scheme (NHIS), the progress achieved is still far from being favorable, as health status indicators have remained unacceptable.^[26] However, if this provision is fully implemented, it would greatly reduce the mortality rate of women and children and allow for a wider access to health care. Such implementation would also in the long run ensure national development because the family's expenditure on health would be reduced thereby leaving room for family income to be disbursed to other aspects of their life such as the children's education, feeding and so on.

By virtue of *Section 20* of the Act,^[27] all health care providers or establishments both public and private are required to provide emergency treatment to any person in need of it and shall not refuse to provide such treatment for any reason at all. The opposite is actually what obtains, every day we hear of stories of patients who were refused emergency medical treatment for lack of a police report or money just as in Obinna's case narrated above.^[28] If the Act is to be properly implemented and followed to the letter, health care providers guilty of such would be liable to a fine of N100,000 or imprisonment for a period not exceeding six months for each case reported against them.^[29] This would go a long way in curbing the negative attitude to work of some health workers and allow more lives to be saved which is the primary goal of the provision of health care services.

The provisions of the NHA remains laudable in addressing issues in the health sector but by the non-implementation of the Act, Nigeria's health system, especially at the grassroots, remains weak as evidenced by lack of coordination, dearth of resource including drug and supplies, and also man power, inadequate and decaying infrastructure, inequity in resource distribution and access to care, and very deplorable quality of care among the legion of other problems being witnessed. It follows therefore, that with the proper implementation of the Act, most of these problems plaguing the health sector would be a thing of the past.

Recommendations

Laws are not laws without a suitable framework for their implementation put in place. Therefore, the emphasis should no longer be on the provisions of the NHA, rather it should be on the implementation of such provisions. The Chairman, Board of Trustees, Health Reform Foundation of Nigeria, Benjamin Anyene, was quoted in 2014 as saying that the implementation of the Act would save the lives of three million women and children over a five-year period.Â In the view of the former supervising minister of health, Dr. Khalliru Alhassan, the National Health Act would cause government's savings in health care delivery to rise from â,17bn in 2015 to over â,211bn in 2025 if fully implemented. It is evident from these statistics that implementation of the Act would not only be beneficial to health care users but also the government as in the long run, government spending on health care will be greatly reduced. This is therefore a call to the federal government to begin the implementation of the National Health Act so that the appalling health indices of the country would significantly improve.

Its implementation will also help achieve some of the Sustainable Development Goals (SDGs) especially Sustainable Development Goal 3 concerning the achievement of good health and well-being by 2030.^[30]

The Nigerian Medical Association during a protest in 2016 threatened a lawsuit against the Federal Government as well as to embark on a bi-weekly protest march to Aso Rock if nothing is done by President Muhammadu Buhari. Actions like this would encourage the executive not to relegate the provisions of the NHA to the background but to ensure enforcement procedures which will ensure actualization of the provisions of the Act.

The implementation process must, however, start with the appropriate funding of all processes that have to do with effective service delivery in the health care sector and making succinct attempts to curtail emigration of health officers by ensuring better pay, more conducive work environments and the provision of adequate facilities and man power resources.

Conclusion

This paper concludes that the health sector in Nigeria falls short in the area of financial resources, human resources and also material resources (Facilities and Equipment). This can only be improved if the government is more committed to the making, implementation, monitoring and evaluation of adequate health policies. A society cannot thrive and flourish if a great part of population is unhealthy and poor. The poor and vulnerable populations should not be made impoverished because of failure of the government to provide much needed health care services.Â The enactment of the NHA 2014 by the legislature is a step in the right direction, the mantle now therefore falls on the executive arm of government to ensure that provisions of this Act are properly implemented and followed to the letter.

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References

[1] Hereinafter referred to as NHA 2014

[2] Ebuka Onyeji, Ayodamola Owoseye and Nike Adebowale, "Dissecting National Health Act: What Nigerians Need To Know", <https://www.premiumtimesng.com/health/health-features/296422-dissecting-national-health-act-what-nigerians-need-to-know-1.html> accessed 31st January 2020.

[3] ibid

[4] Ibid.

[5] Ebuka Onyeji "Why cases of Medical negligence persists in Nigerian hospitals-NMA" (2019) <<https://www.premiumtimesng.com/health/health-news/360964-why-cases-of-medical-negligence-persist-in-nigerian-hospitals-nma.html>> accessed 4th March, 2020.

[6] Ibid.

[7] Martins Ifijeh, "Nigeria: How poor funding is killing Nigeria's Health Sector" (2019) <<https://allafrica.com/stories/201909050446.html>> accessed 31st January 2020.

[8] Mercy Abang, "Nigeria's medical brain drain: Healthcare woes as doctors flee" <<https://www.aljazeera.com/amp/indepth/features/nigeria-medical>

[9] ibid

[10] Osahon Enabuele, & Joan Emien Enabuele, & Nigerian's National Healthcare Act: An assessment of the health professionals Knowledge and perception& [2016], & 57(5), :260, Journal of Nigeria Medical Health Association, https://www.researchgate.net/publication/308130354_Nigeria's_National_Health_Act_An_assessment_of_health_professionals_knowledge_and_perception accessed 29 October 2019

[11] Ebuka Onyeji and Ayodamola Owoseye and Nike Adebowale, & "Dissecting National Health Act: What Nigerians Need To Know& <<https://www.premiumtimesng.com/health/health-features/296422-dissecting-national-health-act-what-nigerians-need-to-know-1.html>> accessed 20 January 2020

[12] Ibid.

[13] Ifeanyi okowa, & "National Health Act: Translating the Law into Quality and Accessible Healthcare& (2015) <<https://www.vanguardngr.com/2015/08/national-health-act-translating-the-law-into-quality-and-accessible-healthcare/>> accessed 25 January 2020

[14] ibid

[15] Section 19 (1) (2), National Health Act 2014

[16] Section 23, National Health Act 2014

[17] Section 31 & 40, National Health Act 2014

[18] Ebuka Onyeji and Ayodamola Owoseye and Nike Adebowale, & "Dissecting National Health Act: What Nigerians Need To Know& <<https://www.premiumtimesng.com/health/health-features/296422-dissecting-national-health-act-what-nigerians-need-to-know-1.html>> accessed 22 January 2020

[19] Section 40, National Health Act 2014

[20] Section 41 & 46, National Health Act 2014

[21] Section 47 & 58 National Health Act 2014

[22] Section 59 & 64 National Health Act 2014

[23] The Leadership, & "Time to Implement the National Health Act& (2018) <https://leadership.ng/2018/01/31/time-implement-national-health-act/> accessed 22 January 2020

[24] Ibid.

[25] Ibid.

[26] Ibid.

[27] National Health Act 2014.

[28] Ebuka Onyeji, Ayodamola Owoseye and Nike Adebowale, & "Dissecting National Health Act: What Nigerians Need To Know&, <https://www.premiumtimesng.com/health/health-features/296422-dissecting-national-health-act-what-nigerians-need-to-know-1.html> accessed 31st January 2020.

[29] Section 20 (2) NHA 2014

[30] Ibid.