

INTRODUCTION

Nigeria Health Care Delivery Laws

The availability of minimum, qualitative health care services to a vast majority of citizens must be regarded by any responsible government as one of the guaranteed fundamental human rights.

The provision of health care delivery services in Nigeria is the responsibility of the three tiers of government; namely the Federal, the States, and the Local Governments.

The Constitution of the Federal Republic of Nigeria, 1999 has provisions which require the Nigerian government to among other things formulate policies which ensures that qualitative health care, sick benefits and other similar health care services are provided to the citizens of Nigeria. Unfortunately, these constitutional provisions are only a guide as they are non-justiciable; i.e. they cannot be brought before a Court of Law for judicial determination of the government's compliance with the said constitutional provisions.

Also, the inability of the three tiers of government to provide minimum, qualitative and affordable health care services in Nigeria, led to the enactment of the **National Health Insurance Scheme Act**, which Act seeks to provide health care benefits to persons, their spouses and not more than four (4) biological children under the age of 18 years old.

There is also the **National Agency for Food and Drugs Administration and Control Act**, which among other things established the managing Agency to regulate and control the importation, exportation, manufacture, advertisement, distribution, sale and use of food, drugs, cosmetics, medical devices, bottled water and chemicals.

Most recently, in 2014, the Nigerian Senate, with a lot of objections from some stakeholders in the health care sector, passed **the National Health Bill**. Pending its assent, it is reported that this Bill will, when passed into Law, guarantee minimum and basic health care services to children under the age of five (5) years old, pregnant women and elderly people with disabilities.

An exposition of some of the health care legislations in Nigeria will be undertaken in this presentation so as to provide you with more information on your health care rights and benefits.

THE NATIONAL HEALTH INSURANCE SCHEME ACT

The National Health Insurance Scheme ("NHIS"), has the primary objective of ensuring access to good, qualitative and cost-effective health care services to every health care insured Nigerian citizen and a restricted number of his dependents.

The NHIS also has as one of its objective the protection of such insured Nigerian families from exorbitant medical bills arising from their not having any health care insurance cover.

The NHIS, like any other insurance scheme, is required to assist the health care sector in Nigeria to have an equitable distribution of health care standards, facilities and costs among different income groups.

CONTRIBUTIONS TO NHIS

Contributions to the NHIS are voluntary, as any employer with a minimum of Ten (10) employees, may, together with every person in his employment, pay a health care insurance contribution to NHIS, at such rate and in such manner as may be determined from time to time by the Governing Council of the NHIS.

All NHIS contributions are required to be paid into the account of the health-insured's chosen Health Maintenance Organisation ("HMO").

Employers' contribution to the NHIS, on behalf of their employees, must not however result in the reduction, directly or indirectly, of the employees' remuneration or allowances, on whose behalf the NHIS contribution is, are or was made.

NHIS REGISTRATION

The NHIS is managed by the NHIS Governing Council; and the NHIS Governing Council has among its key functions the registration of all participants in the NHIS; namely Health Maintenance Organisations ("HMOs"), Health Care Providers ("HCPs"), employers, employees, etc.

Persons who are not obligated to join the NHIS are allowed to apply to be registered with the NHIS as **voluntary contributors**; and on registration, to make the specified contributions like other NHIS contributors to the NHIS.

In return for registering with the NHIS, and making contributions to the scheme, insured beneficiaries of the scheme are entitled to such quality of health care services that the contributor or subscriber has paid for.

HEALTH CARE INSURANCE ARBITRATION

Complaints and violations of any of the provisions of the NHIS Act are required to be referred for judicial decision to the nearest State or Federal Capital Territory, Abuja, Health Insurance Arbitration Board.

All complaints are required to be in writing and delivered within sixty (60) days from the date when the event giving rise to the

complaint arose. An extension of time may however be granted if the Arbitration Board is satisfied that the complainant was justifiably unable to submit the complaint within sixty (60) days of the occurrence of the complained event.

NHIS OFFENCES AND PENALTIES

Any registered person who fails to pay any NHIS contribution into the account of any NHIS organisation within the time specified; or who deducts NHIS contributions from an employee's wages and withholds such NHIS deductions, commits an offence which on conviction, in the case of a first offender, attracts a fine of ₦100,000 or 500 per cent of the amount involved, together with accrued interest; this fine could be with or without imprisonment for a term not exceeding two (2) years or less than one (1) year; or to both the fine and the term of imprisonment.

For repeat offenders, the above monetary penalties and term of imprisonment are required to be doubled when the repeat offender is convicted.

Where any offender is a corporate body, its Directors and Managers who are or were aware of, connived or consented to the infraction of the provisions of the NHIS Act will be deemed to have committed the offence in their individual capacity, and will be liable to prosecution and punishment in the like manner stated above.

BUSINESS BENEFITS OF NHIS CONTRIBUTIONS

One of the benefits that an employer derives from incurring NHIS contributions on behalf of its employees is that the employer will have a healthier and more dependable workforce.

Another benefit to the employer and other independent contributors is that NHIS contributions are tax deductible expenses when computing the tax liability of the NHIS contributor for the relevant tax period.

Also, NHIS contributions are non-transferable to the creditors of a NHIS registered operator, where such operator goes into bankruptcy or insolvency. And where a merger or acquisition occurs, the acquiring entity shall take over the NHIS statutory responsibilities of the previous entities.

PROFESSIONAL INDEMNITY COVER

All health care providers – medical centres, institutions or professionals – are statutorily required to have a professional indemnity cover from an insurance company approved by the NHIS Governing Council.

THE NATIONAL AGENCY FOR FOOD AND DRUGS ADMINISTRATION AND CONTROL ACT

As food and drug administration and control are very essential to qualitative health care, the National Agency for Food and Drugs Administration and Control Act established the National Agency for Food and Drugs Administration and Control (“NAFDAC”).

NAFDAC’s birth was also facilitated by the urgent need to stop the illicit trade in adulterated and counterfeit drugs and foods, from which many lives were frequently lost.

NAFDAC is the government Agency charged to among other things, regulate and control the manufacture, importation, exportation, advertisement, distribution, sale and use of food, drugs, cosmetic, medical devices, bottled water and chemicals in Nigeria.

OTHER FUNCTIONS OF NAFDAC

NAFDAC is also statutorily charged to be the leader in appropriate technological advancement, enforcement and compliance with standard specification for all food, drugs, cosmetics, chemical and such other similar industries, manufactured, imported, exported, etc within the territory of Nigeria.

NAFDAC – OFFENCES AND PENALTIES

Any person who obstructs a NAFDAC official in the performance of his or her duties under the NAFDAC Act; or contravenes any of the provisions of any regulations made pursuant to the NAFDAC Act, will be liable on conviction to a fine or a term of imprisonment; or to both the fine and the term of imprisonment, for the offence so committed.

Where the NAFDAC Act offence is committed by a corporate body, every Director, Manager, Secretary or such similar officer in the corporate body who consented, connived or neglected to prevent the breach shall be deemed to be personally guilty of the offence and liable on conviction to a fine of ₦100,000.

The Federal High Court is seized with the exclusive jurisdiction to try offences committed under the NOTAP Act.

ANCILLARY HEALTH CARE LAWS

By the provisions of the Employees’ Compensation Act, 2010, all employees are entitled to compensation for any death, disease or disability arising from or in the cause of any employment. The conditions precedent to an employee enjoying this benefit is that the employer must mandatorily make a minimum monthly contribution of one per cent (1%) of the employer’s monthly payroll to the Employees’ Compensation Fund.

Also, by Section 9 (3) of the Pensions Reform Act, 2004, employees are entitled to enjoy life insurance cover of not less than three (3) times their annual total emolument.

NATIONAL PRIMARY HEALTH CARE DEVELOPMENT AGENCY ACT

The National Primary Health Care Development Agency Act created the National Primary Health Care Development Agency, which Agency has among its functions the development and regular review of all health care policies, *vis-a-vis* their relevance to the development of Primary Health Care in Nigeria.

This Agency, which is under the Federal Ministry of Health, is also charged to provide technical support to States and Local Governments in their planning, management and implementation of accelerated primary health care development in Nigeria.

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