

THE REGULATORY FRAMEWORK OF MEDICAL AID SOCIETIES

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3 TIER SYSTEM

1. Constitution
2. Medical services Act Chapter 15:3
3. Medical Aid Society Regulations S.I. 330/2000

CONSTITUTION I

- Section 2 supreme law, invalidity of all contrary to it
- Sec 29 1) *The State shall take all practical measures to ensure the provision of basic, accessible, adequate health care services throughout Zimbabwe*
 - 2) *...appropriate, fair & reasonable measures to ensure that no person is refused emergency medical treatment in any health institution*
 - 3) *...all preventive measures within the limits of resources available to it including education & public awareness programmes against the spread of disease*

CONSTITUTION 2

- Section 76 1) *Every citizen and permanent resident of Zimbabwe has the right to have access to basic healthcare services, including reproductive health care services,*
- 2) *No person may be refused emergency medical treatment in any health care institution*
- 3) *The State must take reasonable legislative and other measures, within the resources available to it, to achieve progressive realisation of the rights set out in this section*
- Sec 68(1) *the right o administrative justice i.e. administrative conduct i.e. lawful, prompt, efficient, reasonable, proportionate, impartial, procedurally & substantially fair*

CONSTITUTION 3

- Sec 194(e) public administration by all gvt tiers & agencies. to be guided by principles of responding to public needs promptly & participation in policy making
- Sec 117(2) legislative authority of Parliament: *'to make law for the order & good governance of Zimbabwe*
- Sec 119 Parliament oversight for national interest
- Sec 152 Parliamentary Legal Committee S.I. 77/2015 Pres Pwrs PSMAS

MEDICAL SERVICES ACT CAPI 5:13 PART III

- Constitutional deficit :
 - a. practical measures to ensure the provision of basic accessible & adequate healthcare. Section 8 & 9 concerned only with registration & deregistration- no thematic objectives of achieving health
 - b. Wide and sweeping powers of ministry via the secretary ad discretion was even retrospective! Vagueness sec 9(5)(c),(6) 10(1)(2) cancellation

MEDICAL SERVICES ACT 5`:13

- Practical exigencies deficit- administration of ministry's powers – stakeholders involvement missing
- Discrepancies with offences penalties Sec 9) 11) level 8 2yrs jail for being unlicenced mas yet sec 11(5) has same level but 1yr jail for unlicenced hospitals!
- Fails to regulate links with NSSA Act CAP 17:04 scheme

MEDICAL AID SOCIETIES REGULATIONS SI 330/2000

- The regulations seek to amplify Act and (unlawfully as goes beyond Act's provisions) plug holes eg section 30 obliges Minister to establish advisory and joint advisory councils. Are they adequate?
- Section 30 ministry appointees are Chair and vice chair
- Reinforces flaw of minister hearing appeals of P.S decisions

CONCLUSION

- Need to review the regulatory framework to ensure
 1. Health funding model supports Constitution's demand of ensuring of accessible & adequate h.c., emergency h.c. Preventive h.c. & reproductive h.c.
 2. Administrative justice for all health funding stakeholders
 3. Comprehensive, democratic and responsive health care funding model