THE REGULATORY FRAMEWORK OF MEDICAL AID SOCIETIES

JESSIE F. MAJOME MP

7 SEPTEMBER 2017 VICTORIA FALLS
3 TIER SYSTEM

1. Constitution
2. Medical services Act Chapter 15:3
CONSTITUTION 1

- 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 to 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 CAP15:13  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
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