

# The Nigerian National Health Bill 2011: Delay of Presidential Assent to an Act: Issues Arising

Dr. R.A. Adebayo MPA, FWACP,  
Cardiology Unit, Department of Medicine,  
Obafemi Awolowo University,  
Ile-Ife, Osun State,  
Nigeria.  
E-mail Address: [aderasaaq@yahoo.co.uk](mailto:aderasaaq@yahoo.co.uk)

## ABSTRACT

The Nigerian National Health Bill (NHB) was finally passed by the National Assembly on May 19<sup>th</sup> 2011 after many years of delay. If the NHB is signed into law by the President of Nigeria, Dr. Goodluck Jonathan, it becomes an act that provides a framework for the regulation, development and management of the national health system and set standards for rendering health services in the federation, and other matters connected therewith. The NHB is arranged in parts and clauses, and there are seven main parts. Contained in the NHB are some good innovations, such as the establishment of the National Primary Health Care Development Fund and National Tertiary Hospitals Commission. Currently, the NHB is stuck in the presidency where it has been sent for Mr President's assent, as health sector professionals disagree over some parts and clauses in the Bill. The areas of conflict include: the headship of the National Tertiary Hospitals Commission, the establishment of the Nigerian National Health Council and membership of the National Health System. Several appeals had been made to the President by organisations, groups and individuals to sign the NHB into Law. The President had set up a Presidential Team to look into concerns raised about the passed NHB and resolve the issues. Hopefully, the NHB will be signed by the President into law when these issues are resolved.

## INTRODUCTION

In 2004, the Federal Ministry of Health in collaboration with the National Assembly proposed a National Health Bill with the purpose of providing a framework for the development and management of a structured health system in the country, taking into account the obligations imposed by the constitution and other laws with regards to health services.

It took about 10 years to achieve the passage of the National Health Bill (NHB)<sup>1-8</sup> on Thursday, May 19, 2011 by the Senate of the last (6<sup>th</sup>) Nigerian National Assembly. All through the long wait, various stakeholders called for the passage of the Bill. Presently, all that remains outstanding is presidential assent to make the NHB a federal law.<sup>1</sup> If signed, it becomes an act that provides a framework for the regulation, development and management

of a national health system and set standards for rendering health services in the federation, and other matters connected therewith.<sup>3,6,8</sup>

Prior to the National Health Bill, there had been no legal framework guiding healthcare delivery in Nigeria. The health system was guided by the National Health Policy which is an expression of goals for improving the country's health situation and the main direction for attaining the goals and this had been in place since 1988. As Nigeria celebrated its Children's Day on May 30<sup>th</sup> 2011, UNICEF commended the National Assembly for passing the NHB into law. The NMA also commended the National Assembly on the NHB passage. Addressing a press conference on the 2011 Harmonised Health Bill in Abuja, on Thursday, the NMA President, Dr Omede Idris said: "the passage of the National Health Bill is a demonstration of good political will of

the National Assembly on health.”<sup>9</sup> “The bill is about access, equity and efficiency as well as women, children, people with disabilities and health financing. Everyone is well covered by the bill and it therefore deserves presidential assent,” he said.<sup>10</sup> He declared that the NHB was “one good thing Nigeria can do for the voiceless and downtrodden that still can't access health care and it would checkmate the excesses of people in government who seek for foreign medical attention for what can be treated in Nigeria.”<sup>11</sup>

UNICEF also looked forward to its quick assent by President Goodluck Jonathan to make it immediately implementable across the nation.<sup>5</sup> “The health status of children and women in Nigeria remain poor but we believe that with careful implementation of the National Health Act, along with sufficient funding for and close monitoring of the National Health Strategic Development Plan, Nigeria will take firm steps to reverse this trend,” said Dr. Suomi Sakai, UNICEF Representative in Nigeria.<sup>5</sup>

“We expect the National Health Act to translate into the release of much needed funding from national revenues for the health of children and women. Its focus on an essential minimum package of care to tackle the health problems which cause the highest number of death and illness in children and women is highly commendable. “Scaling up the implementation of an essential package of proven, cost-effective and high-impact interventions in all primary health centres will bring Nigeria closer to attaining the health related MDGs.” In doing so, we encourage the Government and its partners to leave no child behind, as this momentum is really about securing quality primary health care with equity - for every woman and every child. “We look forward to keep working with the Government and its partners to make Nigeria's new Health Act work for all children in the country, irrespective of origin, creed, economic status, disability and gender, said Dr. Suomi Sakai<sup>5</sup> .

The NHB provides a framework for the regulation and provision of national health services, defines the rights of health workers and users, and stipulates guidelines for the formulation of a national health policy. Its promises will not change everything for Nigerians, but the bill does allow them to finally hold the government accountable for their right to health, including equitable access to care. Never before has there been such momentum towards making a real commitment to improving health in this country<sup>1</sup>.

## SUMMARY OF THE CONTENTS OF THE BILL

The NHB is arranged in parts and clauses, and there are seven main parts<sup>3</sup> .Part I is on Responsibility for Health and Eligibility for Health services and Establishment of National Health System. Part II dwells on Health Establishments and Technologies. Part III deals with Rights and Duties of Users and Health Care Personnel. Part IV is on National Health Research and Information System. Part V dwells on Human Resources for Health. Part VI is on Control of Use of Blood, Blood Products, Tissue and Gametes in Humans. Part VII deals with Regulations and Miscellaneous Provisions.<sup>3</sup>

Part 1 of the NHB has been of special interest to many within and outside the Health Sector. Its sections are as follows<sup>3</sup>:

Part I - Responsibility For Health And Eligibility For Health Services And Establishment Of National Health System

1. Establishment of the National Health System
2. Functions of the Federal Ministry of Health
3. Eligibility for exemption from payment for health services in public health establishments
4. Establishment and Composition of the National Council on Health
5. Functions of the National Council
6. Establishment and Composition of the

Technical Committee of the National Council

7. Functions of the Technical Committee
8. Establishment of the National Tertiary Hospitals Commission
9. Functions of the Commission
10. Establishment of Primary Healthcare Development Fund

Establishment, Composition and Tenure of the Federal Capital Territory Primary Health Care Board.

#### AREAS AND ISSUES IN CONTENTION

Currently, the NHB is stuck in the presidency where it has been sent to be signed, as health sector professionals disagree over some parts and clauses in the Bill.<sup>6,20</sup> Less than twenty four hours after the Senate passed the NHB on May 19<sup>th</sup> 2011, real war of words broke out among professional groups and associations in the Health Sector. Threats were issued, ultimatums were given and the various factions were challenging themselves to public debates.<sup>8</sup> Already, the nurses and midwives, pharmacists, technologists and radiographers, physiotherapists, health information managers, medical scientists and others have warned against the signing of the Health Bill. They began their threat with a protest march at the Federal Secretariat on Wednesday, May 25<sup>th</sup> 2011, after which they presented a letter to the Head of Civil Service of the Federation, Professor Oladapo Afolabi, for onward transmission to President Goodluck Jonathan.<sup>9</sup>

On May 24, 2011, Vanguard duo of Victoria Ojeme and Caleb Ayansina reported that the Assembly of Healthcare Professional Associations and Unions has called on President Goodluck Jonathan not to give assent to the National Health Bill recently passed by the Senate. According to the report, the association said “there will be no peace in the health sector if the bill becomes law.” The National Vice President of the Association of Medical Laboratory Scientists of Nigeria, Dr. Godswill Okara, who spoke alongside other

executives, maintained that the bill single-handedly proposed by the Federal Ministry of Health, infringed on their rights and vowed to take legal means to fight it.<sup>8</sup> In addition, Medical Laboratory scientists, under the auspices of Association of Medical Laboratory Scientists of Nigeria, AMLSN, also called for the amendment of Section 1 of the National Health Bill, saying the bill in its present state took no cognisance of existing professional regulatory laws and statutes in the health industry.<sup>14</sup> Speaking to the media in Lagos, National Secretary of AMLSN, Mr. Toyosi Raheem, said the bill would do more harm than good as it did not foster the interest of the multi-professional teams within the health sector. National Secretary of AMLSN explained that section 1 of the bill had already disdained and prejudiced various relevant existing professionals.<sup>14</sup>

Furthermore, Raheem argued that the sub section which set out the rights and duties of health care providers, health workers, health establishments and users was not only ambiguous and irrelevant but also conflicts with and turns a blind eye on the existing laws that established the National Council on Establishment whose functions and powers are by law to prescribe duties and responsibilities for all cadres of workers in the public service through their various scheme of service. He said: “The Bill will not only conflict with the existing regulatory laws and statues, but will increase the crises in the health sector in Nigeria. Therefore, the victims of this crisis shall be the innocent patients, healthcare professionals and the larger society that visit and patronise our healthcare facilities”.<sup>14</sup> The pharmacists under the umbrella of the Pharmaceutical Society of Nigeria (PSN) on Thursday 16<sup>th</sup> June 2011 urged President Goodluck Jonathan to withhold assent to the Bill until identified lapses are re-examined by the National Assembly in the interest of all stakeholders and the public.<sup>13</sup> President of PSN, Azubuike Okwor, in a press statement, said: “The Pharmaceutical Society of Nigeria hereby calls on President Goodluck Jonathan

to withhold assent to the Health Bill while making specific recommendation to the National Assembly to re-examine Sections 1(1) (6), 8(2) and 11 (2) of the Health Bill in the interest of all stakeholders and the consuming public. "The PSN strongly suggests that the phrase 'medical service' be replaced with 'health services' in the totality of the Health Bill. The PSN is of the firm conviction that the Presidency must return the Health Bill to the National Assembly to redress these lapses before assenting to the Bill." He added: "It is therefore a matter of rational logic that all we require in terms of personnel for these responsibilities are seasoned administrators or managers of cognate experience in public health. Running of healthcare endeavours in today's world is akin to managing any business endeavour and so a need arises to open up the borders of restriction in Nigeria's health industry currently led exclusively by doctors which only earned us a rating of 187th out of 191 nations whose health systems were rated in 2000".<sup>13</sup>

So the debate on the health bill is not about how it will best affect the health of the Nigerian people, No! There is actually no pretence about it it is just about the professional tribes (or groups), and how they are positioned to manage 80% of the budgetary resources on health spent on tertiary care at the Federal level in Nigeria.<sup>12</sup> The bill sets up an innovative structure called the "National Tertiary Hospitals Commission" (Part 1 Clause 8 above) to better manage the 80% of the annual budgetary resources on health spent on tertiary care at the Federal level in Nigeria. Now the crux of the matter holding up the bill is simply on the Commission's leadership. The new bill states that the "Executive Chairmanship of the proposed National Tertiary Hospitals Commission must be a *Medical Director of the status of a Professor with a minimum of ten years working experience in a Teaching Hospital*" This clause that limits the Executive Chairmanship to medical doctors in perpetuity has all the other health professionals up in arms. Doctors

argue that it is their traditional role to lead a medical team. The other health professions argue that they must also have a go at leading the commission<sup>12</sup>.

Another controversial area in the NHB is the establishment of the Nigerian National Health System, according to the bill, will be the all-in-all as stated Part 1, Clause 1 subsection 1 thus<sup>20</sup> : There is hereby established for the Federation the National Health System, which shall define and provide a framework for standards and regulation of health services, and which shall:

- a. Encompass public and private providers of health services;
- b. promote a spirit of cooperation and shared responsibility among all providers of health services in the Federation and any part thereof;
- c. provide for persons living in Nigeria the best possible health services within the limits of available resources;
- d. set out the rights and duties of health care providers, health workers, health establishments and users; and
- e. protect, promote and fulfil the rights of the people of Nigeria to have access to health care services.

This portion of the bill is the major reason why so much dust is being raised by Assembly of Healthcare Professional Associations and Unions<sup>20</sup>. This subsection makes the proposed NHS the alpha and omega when it comes to every health decision in the nation. Currently, there are numerous regulating bodies usually on professional basis. For instance, medical laboratory practice in Nigeria is regulated by the Medical Laboratory Science Council of Nigeria as established by the Medical Laboratory Science Council of Nigeria Act 2003. Section 4 (b) of the act empowers the council to: "regulate the practice of Medical Laboratory Science in Nigeria". Other professions are also backed by similar laws. But

with the National Health Bill, these regulatory bodies would be rendered insignificant or at best, impotent. And the NHS would coordinate and regulate everything<sup>20</sup>.

Part 1, Clause 1 Subsection 2 defines who will be included in the National Health System thus:

- a. The National Health System shall include - the Federal Ministry of Health;
- b. (b) the State Ministries of Health in every State and the Federal Capital Territory;
- c. parastatals under the federal and state ministries of health;
- d. all local government health authorities;
- e. the ward health committees;
- f. the village health committees;
- g. the private health care providers; and
- h. traditional and alternative health care providers.

This subsection does not favour other medical professionals apart from the NMA whose members are the minister of health, state commissioners for health, heads of health parastatals and other members of the NHS<sup>20</sup>. This is seen as a calculated move by the brains behind the bill to totally remove the inputs of other health professionals from the operations and day-to-day running of the nation's health system which according to AMLSN's Dr. Godswill Okara, is an orchestration of the ministry and NMA who are seeking to legitimize the culture of tyranny in the sector, "by choosing to ignore our views". But the logical question to ask is that why did they (other health professional groups) wait until the bill is passed before screaming at high decibels?<sup>20</sup>

Apart from health professional groups, others have observed areas in the passed NHB that need to be critically reviewed before the Bill is signed to Law by the President. Dr Aminu

Dagashi observed that the 'Free medical care for children under 5 years' old, pregnant mothers, elderly (above 65years) and disabled people' in the NHB requires deeper analysis<sup>6</sup>. 'At what level of care are services going to be free; teaching hospitals/federal medical centres, secondary health facilities and/or primary health care. If user fees which form a large portion of the internally generated revenue that is used to take care of some overhead expenses are withdrawn from teaching hospitals/federal medical centres, what will be the alternate source of funding? Will the federal government increase their monthly allocation?'<sup>6</sup> Our experience in many states providing free maternal and child health services have shown that, is not effective, efficient and sustainable and lacks reliable records that maternal and under five mortality rates are reducing' he wrote<sup>6</sup>. Professor Njemanze also observed that Government cannot make discretionary use of private hospitals even in the case of emergency without due consent; the NHB by requiring in Part III, Section 20 (1) compulsory emergency care, nationalized all private hospitals in Nigeria, noting that the penalty was a huge fine or imprisonment<sup>16</sup>.

#### RELEVANCE AND BENEFITS OF THE BILL IF IT BECOMES LAW

But the Nigeria Medical Association (NMA), which was accused by the other professionals of manipulating the provisions of the Health Bill in favour of doctors and with the connivance of the Ministry of Health, had called on President Goodluck Jonathan to quickly assent the NBH recently passed by the National Assembly, urging him not to be "distracted by unnecessary wrangling and threats" by the other health professionals.<sup>9,10</sup> The NMA President, Dr. Omede Idris, at a press conference in Abuja on Thursday 26<sup>th</sup> May 2011 said the World Health Organisation and other bilateral organisations had lent their voices to the passage of the bill on account of its inherent benefits to Nigerians. "The bill is about access, equity and efficiency as well as

women, children, people with disabilities and health financing. Everyone is well covered by the bill and it therefore deserves presidential assent," he said<sup>10</sup>.

The NMA described the protests by other medical workers as unnecessary. He stated that except in Nigeria, there was nowhere in the world where the leadership role of the doctor is so brazenly assaulted by other health care professionals, regretting that immediately a new discipline was established in the health care sector, their next pre-occupation was to challenge the leadership role of the medical doctor and dental professional with unsubstantiated claims. "The reasons responsible for this unprofessional attitude and unholy assault include the inordinate, unethical and crass political ambition of some professional groups. Ethically, it is unarguable that the medical doctor is the leader of the health team. This is the norm globally", Dr. Idris added.<sup>9</sup> He also submitted that the bill did not abrogate any of the laws of the regulatory bodies, including the Medical and Dental Council of Nigeria which regulates the practice of medicine and dentistry in Nigeria<sup>10</sup>. He added that the opposition to the bill by paramedical association was because the association did not want patients and clients to know their rights. "The fear of conflicts with the National Health Bill to a curious mind may mean the paramedical laws ab initio are defective and faulty. Standard setting is responsibility of government and the relevant profession, while regulatory body regulates its members," he said. "However it does appear the paramedical professionals do not want the users, that is, patients and clients to know their rights. Do they really mean well for the health of Nigerians? The bill did specify the qualifications and experience of such medically qualified doctor to drive the process. Do the paramedical professionals equally want to take over hospital services division?" Idris wondered why the paramedical professionals would want to take a centre stage in a profession where they were helpers, insisting that there was no other part of the world where

the leadership role of the doctor is brazenly attacked by other health professionals except in Nigeria.<sup>10</sup>

The Ekiti State Chapter of the NMA on June 16<sup>th</sup> 2011 also criticised the delay in signing the NHB by President Goodluck Jonathan.<sup>19</sup> The association's chairman, Dr. Kolawole Ogundipe, told a news conference at the University Teaching Hospital in Ado-Ekiti, the state capital, that more than six million children and 317,400 mothers had died since the bill was introduced in the National Assembly in 2005. Ogundipe said: "We are not unaware of the actions of some groups, which have been calling on the President not to sign the bill. It is difficult to understand why anyone interested in making health available to all Nigerians will go against the assenting of the bill." He said the NHB would give the poor access to quality health care, giving preference to expectant mothers, motherless babies, physically challenged and other vulnerable people.<sup>19</sup>

Also in Benin City, a former Commissioner for Health in Edo State, Dr. Wilson Imogan, on July 24<sup>th</sup> 2011 appealed to President Goodluck Jonathan to assent to the NHB passed by the National Assembly, to save the lives of Nigerians.<sup>18</sup> He said that the bill as passed by the National Assembly would assist in the coordination of health care services in the country because it gave Nigerians the power to seek for good and qualitative health care. Imogan said the bill provided the opportunity for patients to have details of the treatment being administered on them and to sue when they suspect foul play. "I believe that health is a human right and if you go through the bill, it created the opportunity for Nigerians to have good health care for the first time. Therefore, if there are gray areas, we expect that these can be addressed in subsequent amendments. If there are objections to clauses in the document, the National Assembly remains the only body to make that amendment. Don't forget that our constitution was amended twice within a

month because there was need for it .<sup>18</sup>

In an open letter to President Jonathan on July 29<sup>th</sup> 2011 requesting for his assent to the passed NHB, Health Reform Foundation of Nigeria (HEFRON) wrote<sup>7</sup> :-

'Mr. President, we know that you are aware that the NBH provides for:

- Free Medical Care for children under 5 years old, pregnant mothers, the elderly (above 65) and disabled people.
- A guaranteed basic minimum health package for all Nigerians
- Universal acceptance of accident cases by all Health facilities in Nigeria (Public and Private)
- Ensured quality of healthcare services through the issuance of Certificates of Standard (Public and Private).

These will result in improved health outcomes and better quality of life for all. The Bill provides a fundamental shift in the way healthcare services will be governed, planned, resourced, delivered and monitored. It deals squarely with the Nigerian health questions and priorities.... We know Sir, that you made commitment to sign the bill to the international community through the British Prime Minister, David Cameron, the Secretary General of United National- Ban Ki-moon. Mr. President Sir, the Nigerian Health sector reform coalition hereby calls on you to assent to the health bill without further delay'.<sup>7</sup> Hajia Bilkisu (mni) of the Civil Society Watch also wrote<sup>21</sup> ... 'Mr President, please sign the Bill. While I do not expect the Bill to solve all the health problems of Nigerians, I know that the NHB will surely address the gaps and achieve improved results with good governance and a focussed leadership devoid of corruption'.

In her review on the NHB, Kemi Yesufu of Daily Independent Newspaper wrote<sup>22</sup> .... 'many are of the view that for the Bill to bring about the much touted transformation to

health sector, all professionals must agree to it, rather than the situation where some perceive that the Bill as marginalising their professions....Jonathan ought to seek means of assuaging the feelings of those aggrieved by controversial sections of the Bill by finding a middle ground even if it means his seeking an amendment of the Bill'. Dr. Adedamola Dada, former Chairman of the Lagos State Branch of NMA said that although the Bill is not perfect, it has a lot of benefits for the common man and should be assented to by President Jonathan. He said it was better for the Bill to be endorsed first and later amended, just like the National Health Insurance Scheme which most people did not agree with the provisions before it was assented to. He further said that if we continue waiting for all to agree on the provisions of the NHB, there will be no Bill at the end of the day<sup>23</sup> .

Also on Thursday July 28<sup>th</sup> 2011, the Minister of Health, Prof. Christian Chukwu, blamed what he described as noticeable gaps as well as objections raised by health workers for the delay in getting President Goodluck Jonathan to assent to the NHB.<sup>17</sup> He said as soon as the Presidential team set up to look into concerns raised was able to resolve the issues, the President would sign it into law. The minister said the bill needed to be assented to in order not to stifle the growth of the sector.<sup>17,23</sup> President Goodluck Jonathan recently set up a 43-man Committee under the Chairmanship of Justice Bello Gusau to resolve the controversial areas in the NHB<sup>23</sup> .

Finally, the Lancet in an editorial on the NHB in June 2011 wrote thus<sup>1</sup>:

' &On May 29, many Nigerians celebrated again as Dr Goodluck Jonathan was inaugurated as President for the next 4 years. The zoologist succeeded President Umaru Yar'Adua after his death last year, and in April, 2011, Jonathan was re-elected in what is widely considered the most transparent and legitimate election Nigeria ever held. However, until now, health has been

lamentably absent from Jonathan's declared priorities. Although progress has been made in poliomyelitis eradication and health-systems strengthening since he came to power in May, 2010, these are only two of hundreds of indicators in dire need of improvement. Many societal groups grew concerned over his neglect of a health agenda.... At the time of going to press, all that remains outstanding is presidential assent to make the NHB a federal law. This auspicious turn of events gives cause for hope. Perhaps President Jonathan is more devoted to rectifying the appalling state of health in Nigeria than has been apparent thus far. If he really is committed to providing equitable and affordable universal health care for all of his people, he should sign the NHB immediately. There is no better way to say "thank you" for electing him.'

#### CONCLUSION

There is a delay of presidential assent to the finally passed National Health Bill mainly because of disagreement among health sector professionals on some parts and clauses in the

Bill. A 43-man presidential committee has been set up to look into the concerned raised and resolve the issues, after which the President is expected to sign the NHB into Law. The NHB contains some good innovations, such as the establishment of the National Primary Health Care Development Fund and National Tertiary Hospitals Commission. Once the NHB is signed into law, it becomes an act that provides a framework for the regulation, development and management of the national health system and set standards for rendering health services in the federation, and other matters connected therewith.

#### RECOMMENDATIONS

1. There is the need for future periodic review of the passed NHB, when signed into Law, to accommodate changing challenges that will be facing Nigerian Health Care Delivery System.
2. The NHB should be faithfully and honestly implemented when it becomes an Act so as to enable Nigerians benefit from its many