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WHO IS REGULATING PRIVATE HEALTH CARE PROVIDERS

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The views expressed in this publication are neither for the Centre for Policy Analysis nor its partners

Abstract:

Despite the clear constitutional obligation of the government to provide free health care to Ugandans, private health care providers are increasingly playing a significant role in the making health services available to Ugandans. Despite their growing influence in Uganda's health system, questions still remain whether private health care providers are committed to ensuring quality and respect for medical ethics and human rights in the provision of health care. The government of Uganda has an obligation to protect the public against adverse effects of using private health care services by strengthening laws and agencies which monitor and ensure compliance of private health care providers with principles of ethics and human rights

Analysis:

Today, it is more likely that an individual in Uganda will seek health care in a private health unit than it is that they will visit a public facility. While the government has primary obligation of providing health care in Uganda, private health care providers are increasingly gaining a foothold in fulfilment of the health care needs of Ugandans. The increase in the use of private health care which is paid for can be attributed to a number of factors including low investment by the government in public health care which has affected its quality and accessibility for a lot of Ugandans and a growing need by some Ugandans for comfort and convenience in accessing health care which cannot be attained at public health facilities.

Ordinarily, providing health care is the primary obligation of the government and public health facilities are supposed to be the primary sources of health care for Ugandans. The Constitution of Uganda under Objective XIV and XX of the National Objectives and Directive Principles of State Policy requires the government to undertake measures to ensure the provision of basic medical services to the population. Indeed, the Second National Health Policy which came into application in 2010 states that it is the policy of the government to provide health care free of charge to all Ugandans in the public wings of all public hospitals. This is in tandem with the human rights obligations of the government, as reflected in international human rights treaties the Uganda which has ratified, to ensure the realization of the highest attainable standard of physical and mental health.

The government of Uganda has overtime attempted several efforts to fulfil its obligation to provide health care to the public however the indicators for performance remain of the health sector remain very poor. The Uganda

Demographic and Health Survey of 2016, as conducted by the Uganda Bureau of Statistics, found that only 6 out of 10 pregnant women in Uganda have access to at least four antenatal visits required for successful management of the pregnancy. Up to 74% of all births in Uganda are assisted by a skilled health care provider while 73% of all births are conducted at a health facility. According to the survey, these figures collapse dramatically when we consider how many women access skilled postnatal care and it has been reported that only 56% of all women who deliver access postnatal care.

While there has been progress in the improvement of the health conditions in the country, in real terms progress has greatly stagnated in the health sector. The Ministry of Health Annual Health Sector Performance Report of 2016 reports that between 2011 and 2016 the infant mortality rate dropped only 10 points from 54 deaths per 1000 live births to 44 deaths for every 1000 live births. The neonatal mortality rate on the other hand dropped only five points between 2011 and 2016 from 27 deaths for every 1000 live births to 22 deaths for every 1000 live births. The maternal mortality rate has also largely stagnated and having been at 360 deaths for every 100,000 births in 2012 has only been able to reduce 26 points to 336 for every 100,000 live births in 2016.

With the government being the primary duty bearer in the provision of health care, this slow level of growth in the health sector can be attributed to the consistently low budget allocations which the government makes to the Ministry of Health. The Ministry of Health Annual Health Sector Performance Report of 2016 also reports that the government of Uganda's per capita expenditure on health care has stagnated between USD 9 and USD 13 since 2010 and the percentage of the government expenditure on the health sector has stagnated between 6.4% and 8.9% since 2010 which is far below the percentage of 15% of the total government expenditure as prescribed by the 2001 Abuja Declaration on accelerating progress towards achievement of the Millennium Development Goals (MDGs). Indeed it is not surprising that the government of Uganda absolutely failed to achieve the MDGs target of reducing the maternal mortality to reduce its maternal mortality rate by three quarters.

In light of the slow progress by the government in responding to the rising demand for adequate, quality and accessible health care in Uganda, local and regional investors have recognised a market need to provide health care to the public at an improved quality and at an elevated cost. Private health care is therefore progressively become more present in the provision of health care in Uganda and is claiming a stronger foot hold in the health system in Uganda. People generally do not want to wait long in queues for health care, do not want to be endure suffering when they go to health facilities because of shortage of

commodities and do not want to be treated from over-crowded hospital wards which are dominant characteristics of the public health facilities. According to the Ministry of Health Sector Development Plan of 2015, in 2004, the number of people who sought treatment from private facilities was estimated to be at 28% and this percentage increased to 36% of people seeking health care in all facilities in Uganda.

It should be good news that Ugandans are seeking health care from private facilities because this reduces on the burden of the government to provide health care. However, private health facilities are primarily financially motivated and will always place cost before quality, respect for human rights and ethics in provision of health care. Therefore there is a big question about whether private facilities are doing enough to assure quality in the provision of health care.

In the public sector there are structures meant to ensure that health workers are providing the highest level of health care expected of them in the circumstances. From the top we have the Ministry of Health Quality Assurance Department, to the District Health Officer at the District Level, the Hospital Administrators and Directors and Health Unit Management Committees at lower levels of health care.

In the private health care sector, however, ensuring that a health facility is compliant has been largely left at the discretion of the proprietor of the facility. Where a proprietor is ethical and respects the rights of patients, they will make an attempt to provide the highest quality of health care and charge the patient for that quality provided. In most cases however, it is only after a patient has suffered fatal consequences of their rights being violated that regulatory entities take note of the quality of health care being provided at a private health facility. In 2016, it was reported in the Observer Newspaper of how a facility in Wakiso District had been operating at a construction site and without a licenses or registration. It was only until the delivery of a baby was negligently handled and there was media outcry about the situation that the district authorities investigated the facility and discovered the violations. Who then is responsible for licensing, registering and monitoring private health care to ensure that they are in compliance with the law, human rights and medical ethics at all times?

The Uganda Medical and Dental Practitioners Council is responsible for registering, licensing and inspecting all health units in Uganda. It also has responsibility for accrediting and regulating all medical and dental practitioners in the country. Other councils which regulate health professionals include the Nurses and Midwives Council for nurses and midwives, the Pharmacy Council for pharmacists and Allied Health Professionals Council for other health professionals like Clinicians and Laboratory technicians who are not captured

under specific professional categories. Several standards and guidelines have been developed to ensure that these health professionals maintain the highest level of ethical and professional conduct while providing health care. This includes the Patients Charter and the Clients Charter which provides for the health rights of patients in the health setting and the responsibilities of the health worker and specialised codes of conduct for the Nurses and Midwives and the Dentists and medical officers which provide for their professional conduct in the course of providing health care.

Ideally, the application of these standards and guidelines extend beyond the public health facilities and should apply to private health care providers as well. For them to be applied effectively, they have to be backed by strong institutions which enforce any violations by ensuring that health workers tow the line. This is what is missing in the private health care sector.

The professional councils like the Medical and Dental Practitioners Council have the mandate to inspect private facilities and ensure that they meet acceptable standards of health care provisions but have not been empowered by the law to close facilities which do not meet the standards. The only action they take where a facility does not meet the standard is to make recommendations and warn it. The Council is similarly mandated to hear complaints from the public about violation of ethics and human rights by private entities but again they have very limited remedial powers like suspensions, cautions and probations which are not strong enough to promote deterrence. Additionally the Councils do not have an adequate capacity to proactively and preventively ensure the provision of quality services by private health care providers through continuous compliance monitoring. Instead, the Council only responds to complaints after violations have been reported which is not enough to improve health care delivery in the private sector.

The Uganda Medical and Professional Council has started a process of reviewing its constituting statutory instrument, the Uganda Medical and Professional Council Act. Additionally, the Ministry of Health is in the process of developing a national health insurance scheme which should lower the costs of health care in both the private and public health care facilities. These processes present an opportunity for the change to be occasioned in the private health care industry. The law needs to strengthen the capacity of the Council to monitor and inspect private health facilities and immediately punish violations of medical ethics and standards by health care providers. Strengthening the Council requires an increment in the provision of financial and human resources since the standards set in the law require both compliance and enforcement through monitoring and inspection which needs resources. Sanctions should similarly be strengthened

so that deviant private health care providers are given heavy punishments for providing substandard care and to deter those who may want to cut corners in the course of providing health care. Private health care providers should be subjected to financial penalties in terms of compensation, imprisonment of private health care providers who violate principles of ethics and human rights and permanent cancellation of practising licenses to deter deviation from standards.

In addition to the standards already present, a combination of strengthening the council to perform its monitoring and inspection role while at the same time creating stronger penalties for deviant private health care providers should improve the quality of care and respect for ethics and human rights in the course of providing private health care.

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