



## The National Health Act: From Concept to Implementation

Passage of the National Health Act is a new precedent in Thai law and politics, as it is the first law where the public participated in the entire drafting process, which exceeded six years. The drafting process involved a large number of public hearings and made its way through three governments before successfully becoming law after the coup on September 19, 2006.

### First Steps

The first steps towards reforming Thailand's health system were taken after the introduction of the 1997 Constitution, beginning with the "National Health System" report. This report was prepared by the Senate Committee on Public Health (1996-2000) and related parties, and was submitted to the Senate in March 2000. The submission occurred at the same time as the issuing of the Regulation on the Office of the Prime Minister on National Health System Reform requiring that the National Health System Reform Commission (NHSRC) to be established to push ahead health system reform. The reform focused on preventative medicine or "building before repairing."

The draft National Health Act, the single most important step towards reformation, was intended to be the major law on health, which would lead to a new health system and all necessary components within three years. However, the set-up period was unrealistic and was extended to five years, ending in August 2005.

The reform was based on the "Triangle that Moves the Mountain" approach of Dr. Prawes Wasee, whereby knowledge comes through research, and through social political movements. In accordance with the National Health Development Plan, four strategies were set up:

*Knowledge building* - To synthesize all knowledge in preparation for drafting the act and to reform the health system. *Collaboration with*

*the society* - To participate in movements with organizational partners, networks and people eliciting their comments and to hold public hearings

*Public communication* - To collaborate on drafting the act and to change Thai people's perception of health.  
Management - To propose the Draft Act and to coordinate the support within three years (2000 - 2003)

In the first year of the reform, the National Health System Reform Office (NHSO) presented the framework to the public. The NHSO also welcomed public involvement in around 1,500 forums where the new health framework would collectively be considered and proposed.

The most important event of the first year, 2001, was the National Health Assembly Forum with up to 150,000 participants. The objective of the forum was to receive comments, share ideas and gather summaries that would be handed to the sub-committee to draft the Act. After that, local public hearings on the draft were organized. The last public hearing was held during the National Health Assembly meeting from August 8-9, 2002, where Prime Minister Thaksin Shinawatra announced that the government would move forward on the draft.

### The Original Draft

Through public hearings and collaboration with thousands of people including civil society, academics, government offices, politicians and 3,000 networks, the "Draft National Health Act" or *Thai Health Constitution*, consisting of 93 sections, was finally proposed to the government on September 24, 2002. The main points are as follows:

1. Health is not just a matter of disease and treatment (Section 3): The scope of "health" was expanded to include physical, mental, social and spiritual dimensions. Well-being involves economics, the mind and body, family, community, society, culture and environmental dimensions.
2. Health is the national objective (Section 6): Social well-being was regarded as an ultimate goal, not financial wealth or economic development.
3. Health system is based on the concept of building

before repairing (Section 7): The health system is changed from being reactive to diseases and various physical conditions to being offensive or proactive on building health based on sufficiency and respect for human dignity.

4. The respect for human dignity and human value (Section 5, 8-24): Health is a part of human dignity. The right to health is stated in various sections, for example the right to services, the right to die in peace, the right to choose, and the right to information

5. Duties of the State in line with policies in the Constitution (Section 27-31): The Act designated duties of the State for the well-being of all Thai people

6. Health security (Section 32-33): Health security includes social, economic, infrastructure, resources, environmental and political dimensions. It also includes access to services and respect for a person's right to choose from a diverse array of services.

7. Complete health system: The system includes health promotion (Section 66-68), prevention and control of health-threatening factors (Section 69-70), public health services and quality assurance (Section 71-74), local health wisdom (Section 75-77), consumer protection on health (Section 78-79), knowledge and information on health (Section 80-82), health personnel (Section 83-85) and financing for public health services (Section 86-88).

All of these points have been debated by concerned groups. There have been public discussions on issues such as spirituality, the health system, public participation, and patients' rights.

### Movements Towards Health Reform

The draft was based on the "Triangle that Moves the Mountain" concept, referring to the interaction between knowledge, society and politics. In its first stage, the draft was mainly moved by academics and members of the public through annual public forums called "the National Health Assembly." The Assembly was a key mechanism activating people's movements from local to national levels. After the draft was submitted to the Government on September 24, 2002, civil society initiated a petition drive to support the draft. Less than two months later on November 2, 2002, a list of 4.7 million names was handed to Mr. Utai Pimchaichon, President of the National Assembly, at a health promotion event for the King.

During fifteen months of Cabinet consideration, people involved in the draft or the "Supporting Network for People's Law Proposal" exercised their rights based on the 1997 Constitution by gathering more than 120,000 names to propose the Draft Act on National Health to the President of the National Assembly on May 2004. Later in August, the Cabinet approved the principles of the Act, which was handed to the Office of the Council of State for review. The revision reduced the numbers of sections from 93 to 52 and was included in the Cabinet's agenda for November 2005. In addition to the two Draft Acts Cabinet also considered three other drafts proposed by the Democrat Party, the Chart Thai Party and the Thai Rak Thai Party.

The House of Representatives finally agreed in principle with 277 voting for the draft, 3 abstaining and no one voting against. Next, the Government draft was considered by the ad hoc committee. However, the draft was placed in suspension when Parliament was dissolved on February 24, 2006, following the coup by the Council for Democratic Reform under Constitutional Monarchy on September 19.

The draft consideration process was resumed after General Surayuth Chulanont was proclaimed Prime Minister and the new Minister of Public Health again proposed the draft to the Cabinet. On November 7, 2006, the Cabinet approved and submitted it to the Assembly, where it was then agreed to in principle under Agenda 1 by 118 votes to 5 and 1 abstention. An ad hoc committee was set up to consider Agenda 2 and 3 on December 27-28, 2006, and received the committee's approval on January 4, 2007.

Two important sections deleted under review of the Council of State were added back into the Act under Section 5/1: *"Health of women includes sexual and reproductive health, which are particular, complex and important to the women's health through their lives, must be strengthened and protected consistently and appropriately"*

*Health of the children, the disabled, the elderly and the underprivileged in the society, and the specific groups of people with special health characteristics, must be strengthened and protected consistently and appropriately.*

And the Act under Section 9/1: *"A person or group of persons shall have the right to request a health impact assessment of a public policy."*

*"A person or group of persons shall have the right to receive information from official units before the introduction of any project or activity which may affect the health of a person or the community, and shall have the right to express opinions on the matter."*

Among sensitive and controversial issues, the right to die under Section 12 received the most public scrutiny and criticism. It provides that: *"A person has the right to make a written advance directive expressing his refusal to health care service aiming only to prolong his death at the end of his life or to terminate the suffering from the disease."*

*The compliance of the advance directive referred to in the first paragraph shall be in line with rules and procedures set forth in the ministerial regulation.*

*Medical professionals have the duty to act according to advance directive referred to in the first paragraph; and the execution in compliance to the advance directive shall not be considered illegal and shall be exempt from any liability."*

Senator Somkiet Onvimon argued that the right to die was a major issue, but was being dealt with through nothing more than a ministerial order. Patients would have to write a letter stating that they did not wish to receive lifesaving treatment. In practice, patients in a coma will not be able to write a letter. Allowing a patient to die naturally if he or she wants to is perhaps merciful and patients may have the right to ask for this. But medical ethics around the world do not permit doctors to allow their patients to die. If Thai doctors let their patients die, it will lead to numerous complaints and court cases.

Dr. Monkol Na Songkhla responded that the ministerial order provided patients with the right to refuse treatment. Doctors would not have the right to make the decision themselves. If the patient did not write the letter, then the relatives would have to decide instead. If the patients made a decision, the doctors would act accordingly. The Ministry of Public Health had therefore

issued an order explaining which relatives would have the authority to make these decisions. The family, not the doctor, are the ones to decide.

Finally after more than six years, the Draft Act successfully emerged from the participatory process and eventually became law to the delight of all concerned parties, and particularly the Moranamai Association, in particular. One Association member said that 99 members countrywide would be ordained at Wat Chonpratan Ransarit immediately after the enforcement and that the ordination was dedicated to all people involved in the draft.

### Benefits from the People's Movement Supporting the National Health Act

The social movement over the six years leading up to the passing of the Act in January 2007 brought important benefits to Thai society:

(1) A shift in health ideology: The following items summarize comments and recommendations made on the Act:

- The concept of health has been expanded beyond the concept of absence of disease to include a person's entire well-being, involving physical, mental, social and spiritual dimensions.
- Importance is placed on environmental conditions affecting well-being
- Emphasis was shifted from treating diseases to health promotion or building before repairing.
- The medical system, which previously involved only Western medicine, was changed to a pluralistic system including local wisdom

(2) The expansion of civil society: Numbers, issues, activities and roles of civil society increased. The collaboration among people and small local organizations helped facilitate content and social issue development for reforms in all provinces. Relationships and networks were built that extended across provinces.

Civil society was strengthened through local forums for people to exchange and share ideas on well-being. Along with the strengthening, they also learned about the social rights in Thai society. Under the rights, all Thai citizens could have the first institutionalized welfare system.

(3) Law as a tool for health system development and public policies that would favor health and well-being in the long term. This means Thai people could apply laws to address well-being for everyone.

### From Ideology to Practice: The Next Steps

The National Health Act was designed to be a "Health Constitution" to deal with complex health problems. The Act was not aimed to empower any organization in particular but instead to involve people from all walks of life. The Act proposes guidelines and principles of a health system for Thai people guided by the objective to develop health security, solutions and knowledge.

The Act places importance on rights, information, health security and health promotion for children, the elderly, the poor and the disabled. It emphasizes good health practices of individuals or groups that will not threaten other people's health. There is also a statement about gender discrimination, particularly the discrimination against women whose reproductive health system is complex and different from men's. The statement protects women from social values, cultures and belief that are detrimental to their health.

The Act, including the ideology and principles, emphasizes justice in the health system, in contrast to current practice. The objective of the Act is to solve problems at their root causes. The Act makes the concept of building before repairing the core of the new health system.

*The main barrier to the success of the Act is the current emphasis on treatment rather than health promotion.*