On the Meaning and Power of a World Health Assembly Resolution

By now most of you know the transparency resolution was approved by the 72nd World Health Assembly on May 28th after a week of negotiations and a flurry of leaks and attacks against negotiators by some from the non-state actor community. The resolution raises a lot of questions about its meaning, implementation, unintended consequences, and the effect of a complete disassociation by Germany, the UK and Hungary and partial dissociation and expression of the right of reservation by Thailand. And there was the process by which this resolution was developed, presented and plowed through the 72nd Assembly which raises all sort of Assembly and non-state actor governance issues. In addition to the questions around the interpretation of the resolution, the challenge is how can and should industry respond. In this short and last Mid-Cycle for May 2019, UN Health will begin to answer these troublesome questions and lets you know that we will continue to delve into the possible answers over the next couple of months.

To start, first let us consider what is a resolution? In many of the statements by Tedros and others, and in the reports and opinions rendered since, it has been referred to as an “agreement.” The World Health Assembly (WHA) has “powers” accorded to it by its Constitution such as from Article 18: to determine the policies of the WHO; to promote and conduct research in the field of health; and to establish such other institutions as it may consider desirable. Simply put a resolution is a statement of policy which does not have any legally binding effect on a Member State. This is why the transparency resolution starts with “OP1 URGES Member States in accordance with their national and regional legal frameworks and contexts to…” Indeed, the Assembly can make laws that are binding according to other specific provisions in the Constitution, but this resolution is not a law thus not binding on Member States. However, this does not mean it will have no effect. At a minimum emboldened activists and those within the WHO that hold certain views will take the resolution as a mandate and road map.

UN Health will continue to parse the meaning and power of the transparency resolution. If you wish to continue to read our views on this topic and other Global Health Conversations, please consider subscribing for the balance of the year or for a subscription to run for a full twelve months starting in the month your company is invoiced. For information on ordering visit www.unhealthupdate.com

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